Section 218 (Voluntary) and Mandatory Social Security for Governmental Employers

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Melanie Helmick, State Social Security Administrator
Nimeri Denis, Assistant State Social Security Administrator
President Roosevelt signed the 1935 Social Security Act into law.
State Social Security Administrator

Every State with a Section 218 Agreement must have a State Social Security Administrator – a designated official legally appointed to act for the State in negotiations with the Social Security Administration.

• Acts for the State:
  • With respect to the initial Section 218 agreement and modifications.
  • The performance of the State’s responsibilities under the Agreement.
  • In all the State dealings concerning the administration of the Agreement.
Alaska State Social Security Administrators

• **Kay Gouyton**  *Former State Social Security Administrator, retired July 2015*

  *Division Retirement System Compliance Auditor and State Social Security Administrator*

  • **Background**
    - Originally from Zambia, Africa
    - Masters Degree in Finance

  • Relevant Work History:
    - Non-profit accounting in Zambia
    - Providence Hospital

• **Melanie Helmick**

  *Division Retirement System Compliance Auditor and State Social Security Administrator*

  • **Background**
    - Originally from Petersburg, AK
    - Bachelors Degree in Accounting

  • Relevant Work History:
    - Private Tax Accountant
    - Prior State Experience:
      - Legislative Audit
      - Division of Finance
      - Division of Retirement and Benefits

• **Nimeri Dennis**  *Hired October 2015*

  *Retirement System Compliance Auditor and Assistant State Social Security Administrator*

  • **Background**
    - Originally from Zambia, Africa
    - Masters Degree in Finance

  • Relevant Work History
    - Non-profit accounting in Zambia
    - Providence Hospital
Social Security Coverage of State and Local Government Employees

State and local government employees may be covered for Social Security and Medicare under either a Section 218 agreement (voluntary), or under mandatory coverage rules.
Section 218 Employers (AKA Voluntary Employers)

- Section 218 refers to Section 218 of the Social Security Act.
- Voluntary agreement between a state and the Commissioner of Social Security.
- Allows a state to voluntarily provide Social Security and Medicare or Medicare-only coverage for the services of state and local government employees.
- The State of Alaska Section 218 original agreement was effective January 1, 1951.
- State’s Political Subdivisions can join the original agreement via a modification.
- Reference to Section 218 encompasses the original State 218 agreement and all modifications to the agreement.
- The original agreement has had 187 modifications.
- Agreements cover positions, not individuals.
- If the position is covered under the agreement, any employee filling that position is subject to Social Security taxes.
Mandatory Employers

Requires Social Security coverage for state and local government employees who are not members of a retirement system and who are not covered by a Section 218 agreement.

Modifications

• Cannot dissolve a modification after 1983.

• Recent Modification example:
  • Modification to keep PERS employees enrolled in Social Security.
    ▪ Mandatory employer had PERS employees enrolled in Social Security.
    ▪ Mandatory = mandatory enrollment in Social Security unless enrolled in a qualified FICA replacement plan (retirement plan, PERS).
    ▪ Problem: entity broke away from a Borough who was a Section 218 employer and formed new political subdivision.
    ▪ New entity = new Section 218 modification.
    ▪ No new modification prepared.
    ▪ SSSA’s determined issue during PERS compliance review.
Modifications

• What now?
  • Governing board determined if PERS employees would remain in Social Security or be immediately removed.
  • Governing board decided to keep PERS employees enrolled, continued enrollment then went to a vote of the employees.
    ▪ Types of vote: majority rules or divided referendum.
  • Employees voted unanimously for continued enrollment.
  • SSSA prepared modification and currently working with Social Security Administration.

• Modifications can be done for different coverage groups.
  • Retirement system coverage group (as in example).
  • Absolute Coverage Group.
What kind of employer are you?
Section 218 or Mandatory

*If you don’t know – CALL MY OFFICE!*

- State of Alaska has ~ 240 political subdivisions, including:
  - Hospitals
  - Cities and boroughs
  - School districts
  - Authorities
  - State quasi-corporations (e.g. the Alaska Housing Finance and the Alaska Gasline Development corporations)
  - Colleges and universities

- Section 218 Agreement – one size does not fit all!
- Each political subdivision is different and each modification is different.

*Remember, a Section 218 agreement covers positions, not individuals.*
Teachers Retirement System = No Social Security Enrollment

TRS positions in the State of Alaska are not covered.

State of AK Section 218
Original Agreement excluded retirement systems in effect when written:

- TRS Members
- Anchorage Fire Fighter Group
Rehired Retirees

• A rehired annuitant is a retiree who is rehired by his or her employer or another employer that participates in the same retirement system as the former employer.

• A rehired annuitant is either receiving a retirement benefit from that retirement system, or has reached retirement age under the retirement system.
Rehired Retirees – Mandatory Coverage

Rehired annuitants are excluded from mandatory Social Security coverage.

**Example:**

- A teacher retires from service with a school district that participated in a statewide teachers’ retirement system (TRS) and did not have a Section 218 agreement. She begins to receive benefits from the system, and later becomes a substitute teacher in another school district that participates in the same statewide system (TRS).
- The employee is treated as a rehired annuitant and is not subject to mandatory Social Security tax.
Rehired Retirees –
Section 218 Agreements

Section 218 Agreements TRUMP Mandatory Rules.

If an employee is rehired to perform services in a state or local government position that is covered for Social Security under a Section 218 Agreement, services in that position are covered for Social Security.
Mandatory Medicare coverage began April 1, 1986. *It was not an April Fool’s Day joke!*

**Everyone is IN – unless…**

- Services performed after March 31, 1986, by an employee who was hired by a state or political subdivision employer before April 1, 1986, are EXEMPT from mandatory Medicare tax if the employee is a member of a qualifying public retirement system and all of the following requirements are met:
  - The employee was performing regular and substantial services for remuneration for the state or political subdivision employer before April 1, 1986, and
  - The employee was a bona fide employee of that employer on March 31, 1986, and
  - The employer relationship with that employer was not entered into for purposes of avoiding the Medicare tax, and
  - The employer relationship with that employer has been continuous since March 31, 1986.

*Example: Kay Gouyton*
State and local government employers are REQUIRED to notify employees hired on or after January 1, 2005, in jobs not covered by Social Security, of the effects of the Windfall Elimination Provision and the Government Pension Offset. The law REQUIRES newly hired public employees to sign Form SSA-1945, indication that they are aware of a possible reduction in their future Social Security benefit entitlement. Visit SSA.gov for the latest versions of forms.
Social Security Administration

Statement Concerning Your Employment in a Job Not Covered by Social Security

Employee Name

Employee ID – NO SSNs, please!

Employer Name

Employer ID

Your earnings from this job are not covered under Social Security. When you retire, or if you become disabled, you may receive a pension based on earnings from this job. If you do, and you are also entitled to a benefit from Social Security based on either your own work or the work of your husband or wife, or former husband or wife, your pension may affect the amount of the Social Security benefit you receive. Your Medicare benefits, however, will not be affected. Under the Social Security law, there are two ways your Social Security benefit amount may be affected.

Windfall Elimination Provision

Under the Windfall Elimination Provision, your Social Security retirement or disability benefit is figured using a modified formula when you are also entitled to a pension from a job where you did not pay Social Security tax. As a result, you will receive a lower Social Security benefit than if you were not entitled to a pension from this job. For example, if you are age 62 in 2013, the maximum monthly reduction in your Social Security benefit as a result of this provision is $355.50. This amount is updated annually. This provision reduces, but does not totally eliminate, your Social Security benefit. For additional information, please refer to Social Security Publication, “Windfall Elimination Provision.”

Government Pension Offset Provision

Under the Government Pension Offset Provision, any Social Security spouse or widow(er) benefit to which you become entitled will be offset if you also receive a Federal, State or local government pension based on work where you did not pay Social Security tax. The offset reduces the amount of your Social Security spouse or widow(er) benefit by two-thirds of the amount of your pension.

For example, if you get a monthly pension of $600 based on earnings that are not covered under Social Security, two-thirds of that amount, $400, is used to offset your Social Security spouse or widow(er) benefit. If you are eligible for a $250 widow(er) benefit, you will receive $100 per month from Social Security ($400 - $400 = $100). Even if your pension is high enough to totally offset your spouse or widow(er) Social Security benefit, you are still eligible for Medicare at age 65. For additional information, please refer to Social Security Publication, “Government Pension Offset.”

For More Information

Social Security publications and additional information, including information about exceptions to each provision, are available at www.socialsecurity.gov. You may also call toll free 1-800-772-1213, or for the deaf or hard of hearing call the TTY number 1-800-325-0778, or contact your local Social Security office.

I certify that I have received Form SSA-1945 that contains information about the possible effects of the Windfall Elimination Provision and the Government Pension Offset Provision on my potential future Social Security Benefits.

Signature of Employee

Date

Form SSA-1945 (01-2015)
Destroy Prior Editions

Send us a Copy
We’re About Compliance!

Don’t hesitate to:

• Contact us if you think you may have an issue,

• Contact us if you have a question,

• Contact us if you’ve been incorrectly withholding Social Security,

• Contact us if you should be withholding Social Security and you are not.

*Our office is here to help!*
Publications

• IRS Publication 963
  ▪ Federal-State Reference Guide
    ▪ Social Security Administration
    ▪ Internal Revenue Service
    ▪ National Conference of State Social Security Administrators

• IRS Publication 5137
  ▪ Fringe Benefit Guide
    ▪ IRS Office of Federal, State and Local Governments

• National Council State Social Security Administrators Handbook for State Social Security Administrators
SSSA Contacts – Who we call for help!

IRS and the SSA

- Internal Revenue Service Agent out of Wyoming who is the Pacific Area Manager for IRS Federal State & Local Governments (FSLG)

- Two Social Security Administration Agents in Seattle
  - Section 218 Expert
  - Employer Services Liaison Officer
Questions we can answer:

- Social Security
- Medicare
- Issues we have raised in Audit/Review reports

Questions we can’t answer:

- Retirement System Eligibility
  *Roberto Aceveda, Supervisor – Employer Counseling and Benefit Education*
- Retirement System Payroll
  *Erika Burkhouse, Supervisor – Active Payroll*
- Personal Social Security Accounts
Help for your employees:

- SSA.gov
- My Social Security Account
- Local SSA Offices

The State Social Security Administrator works with the State’s political subdivisions.

We cannot answer questions regarding individual employees.
Contact Us:

Melanie E. Helmick
Phone (907) 465-5707
Melanie.Helmick@Alaska.gov

Nimeri Denis
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Nimeri.Denis@Alaska.gov
Fun Fact!

Ida May Fuller

January 31st, 1941
First person to receive monthly Social Security retirement benefits.