Social Security News

Employer news from the Alaska Division of Retirement and Benefits

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What Employers Should Know About Social Security and Medicare Coverage

Some local governments or governmental entities in Alaska have contracts through the state with the Social Security Administration to provide coverage for eligible employees. These contracts are called 218 Agreements.

To enter into a 218 Agreement, a governmental entity must first be defined as such by either state statute, attorney general opinion or a court decision.

Employees who can be covered by such agreements are defined through provisions of federal or state laws or by the state's Social Security Agreement. In Alaska, members of the state's Teachers' Retirement System (TRS) are specifically excluded from Social Security.

If an employer doesn't have a 218 Agreement with Social Security, the employer falls under the provisions of mandatory Social Security reporting. Under these provisions, all eligible employees must either be enrolled in an alternate qualified retirement plan or, if no alternate plan is available, they default

into Social Security.

Some employers in Alaska have specific exclusions or limitations written into the 218 Agreements, such as:

- Exclusion of election workers or election officials earning less than $50 or $100, which is less than the federally excluded amount.
- Exclusion of student hires, if the employer is a school district of the state.

In addition, some employers still have employees who are excluded from Medicare reporting. If the employer doesn't have a 218 Agreement and the employee was hired prior to April 1, 1986, the employee could be excluded from Medicare.

If you have not signed a Social Security 218 Agreement and you have questions concerning Medicare or Social Security exclusions, contact the state's Social Security Administrator, Kay Gouyton, at (907) 465-5707 or via email at Kay.Gouyton@alaska.gov.

Employers May Claim Credit for COBRA Medical Premiums

Employers may now claim a credit for the COBRA medical premiums they pay for former employees. The recently enacted *American Recovery and Reinvestment Act of 2009* includes changes to the health benefit provisions of the *Consolidated Omnibus Budget Reconciliation Act of 1985*, commonly referred to as COBRA. The new law will affect former employees and their families, employers, and others involved in providing COBRA coverage.

Under the new law, eligible former employees enrolled in their employer's health plan at the time they lost their jobs are required to pay only 35 percent of the cost of COBRA coverage. The employer must treat this 35 percent payment as full payment, but the employer is entitled to a credit for the other 65 percent of the COBRA cost on their payroll tax return.

A revised version of Form 941, *Employer's Quarterly Federal Tax Return*, was sent to about 2 million employers in mid-March. The form is used to claim the new COBRA premium assistance payments credit, beginning with the first quarter of 2009.

The IRS has new information about COBRA health insurance at www.IRS.gov that includes questions and answers for employers.

"This is the first step in our effort to provide employers with information on this important health benefit for people who have lost their jobs," said IRS Commissioner Doug Shulman. "We will continue our work in the weeks ahead to help employers implement this crucial change for the nation's unemployed."

Employers must maintain supporting documentation for the credit claimed. This includes:

- Documentation of receipt of the employee's 35 percent share of the premium.
- In the case of insured plans: A copy of an invoice or other supporting statement from the insurance carrier and proof of timely payment of the full premium to the insurance carrier.
- Declaration of the former employee's involuntary termination.

COBRA provides certain former employees, retirees, spouses, former spouses and dependent children the right to temporary continuation of health coverage at group rates. COBRA generally covers health plans maintained by private-sector employers with 20 or more full and part-time employees. It also covers employee organizations or federal, state or local governments. It does not apply to churches and certain religious organizations. The new COBRA subsidy provisions also apply to insurers required to offer continuation coverage under state law similar to the federal COBRA.

More information about COBRA payments and the new law is available at www.dol.gov.

IRS Requests Comments on Cell Phone Usage

The IRS is requesting public comments on proposals to simplify procedures for substantiating employee cell phone use when cell phones are provided by the employer. Notice 2009-46 has details regarding the proposals.

Government employers frequently provide their employees with cell phones and pagers to conduct business. To the extent that the employee uses the employer's cell phone for business purposes, the value of the use is excludable as a working condition fringe benefit. However, any personal use is income to the employee.

In 1989, cellular telephones were designated as "listed property" under the Internal Revenue Code, and are therefore subject to special substantiation requirements. Although the use of these phones is much more widespread and economical today, they remain listed property under law and are subject to special recordkeeping requirements to establish the business use of the property. To exclude the value of use of an employer-owned cell phone by an employee from income, the employer must have some method requiring the employee to keep records distinguishing business from personal phone use.

Under current requirements, the employee should keep a record of each call and the time it is incurred, as well as business purpose. If calls are itemized on a monthly statement, they should be identifiable as personal or business, and the employee should retain any supporting evidence of the business calls. This information is submitted to the employer, who must maintain these records supporting the exclusion of the phone use from the employee's wages. The value assigned to individual personal calls must include a pro

rata share of monthly service charges. The fair market value of any personal use is included in the wages of the employee. If the extent of personal use cannot be established, the entire value of the cell phone is taxable income to the employee.

Because of the volume of calls that an employee may make, as well as the variety of telephone service provider pricing systems, the recordkeeping requirement may be burdensome to employees as well as employers. In order to simplify reporting requirements, and eliminate the need for detailed records on each call, *Notice 2009-46* presents three proposals for simplifying the reporting burden:

- Minimal personal use method
- Safe harbor substantiation method
- Statistical sampling method

Comments on any of these three proposals must be submitted in writing *on or before* September 4, 2009. See the Notice for more information on the proposals and procedures for comment.

For more information on employee use of cell phones, see the FSLG Fact Sheet.

If you wish to submit comments, but do not want to send them directly to the IRS, you may submit them to kay.gouyton@alaska.gov *prior to* August 15, 2009. Submissions to this address will have identifiers removed and will be forwarded to the IRS.

New Law Provides Special Tax Benefit for Firefighters and Emergency Responders

A new law provides a special tax benefit for volunteer firefighters and emergency responders. The new law allows them to exclude certain benefits received for performance of volunteer services from being considered as income.

The *Mortgage Forgiveness Debt Relief Act of 2007* contained an important provision affecting firefighters and other emergency responders who receive local tax benefits or other benefits for volunteer services. This provision was further clarified by the *Heroes Earnings Assistance and Relief Tax Act of 2008*.

Reduction of Taxes

Any reductions or abatement of state or local property or other taxes provided to volunteers in recognition of work performed constitutes compensation and, under *prior* law, is fully taxable under Internal Revenue Code section 61. However, as of January 1, 2008, volunteers who perform services for a qualified volunteer emergency response organization may exclude the value of property tax abatements from federal gross income, Social Security, and Medicare (FICA) taxes. No additional withholding is required on the value of these benefits.

Property taxes are generally deductible as itemized deductions, but any amounts excluded under these provisions may not be included on Schedule A as deductible taxes.

Other Benefits

In general, reimbursements for expenses are included in the income of the volunteer unless they are made under the provisions of an accountable plan. An accountable plan requires that an employee timely account for all reimbursements and return any excess amounts. See Publication 15, Employer's Tax Guide.

The new law provides that the value of other benefits received (such as reimbursements for expenses or equipment allowances), up to $30 for each month of volunteer service during a calendar year, may be excluded from income for income tax, social security and Medicare purposes. The exclusion should be applied after taking into account amounts excludable as reimbursements under an accountable plan. If the volunteer performs services in each month of the year, the maximum exclusion for these benefits is 12 x $30, or a maximum of $360 per year for each employee. The qualified organization making these payments is not required to withhold income, Social Security or Medicare taxes on these amounts; withholding on each individual for income, Social Security and Medicare taxes should begin for each month after the first $30 of excludable benefits has been received.

Who Is Eligible for the Exclusion?

Individuals who perform services for qualified volunteer emergency response organizations are eligible for these benefits. For this purpose, a "qualified volunteer emergency response organization" is an entity that is organized and operated to provide firefighting or emergency medical services for persons in the state or political subdivision. The $30 per month exclusion applies to amounts not otherwise excludable as reimbursements received under an accountable plan. For more information on accountable plans, see section 5 of
Publication 15-B.

The exclusion for both tax abatements and other qualified benefits is available for 2008, 2009, and 2010.

Have You Received a Letter from the Federal, State & Local Governments Office?

As part of its efforts to correctly identify all government entities, the Federal, State, and Local Governments (FSLG) Office has mailed a request to government entities for which it has incomplete information. If your name was listed on the Bureau of Census database for the 2002 Census of Governments as a government entity, and the FSLG was unable to find you in their system, they sent you Letter 4147 asking for your correct name and Taxpayer Identification Number (TIN). If you received one of these letters, please print the name listed on the letterhead on Form 13815 that was enclosed, *Government Entity Assessment*. Write in your correct name, if different from that shown, and your TIN. Please return in the enclosed envelope, or fax to 1-512-499-5079 or 1-954-423-7477.

If you have any questions, please contact FSLG at 1-877-829-5500. Returning this information will enable the FSLG Office to provide you with better service and help avoid erroneous notices.

We hope you find this newsletter helpful. If you have any questions or suggestions please feel free to contact us. Any feedback from you will be greatly appreciated. The following people are your contacts in the Audit Section:

Katherine (Kay) Gouyton
Division Auditor, State Social Security Administrator
Toll free: 1-800-821-2251; (907) 465-5707

Click here for all past issues. Email your comments to Kay Gouyton or the editor, Barbara Kelly.

The Audit Section operates under the guidance of IRS Publication 963 and the *State & Local Coverage Social Security Handbook*, SSA Publication No. 16-055.

Please refer to IRS.gov and SSA.gov for further information.

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