

Refer: 2016-01

## TEXAS STATE SOCIAL SECURITY ADMINISTRATOR ADVISORY

IN RE: Statewide Election Worker Social Security and Medicare Tax Exclusion

The Office of the Texas State Social Security Administrator provides notice of the Social Security and Medicare tax obligations for election workers for all public entities in the State of Texas.

PORTER WILSON  
EXECUTIVE DIRECTOR

Please be advised that:

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1. This advisement is in furtherance of the designation by Governor Rick Perry to James Sawyer, MPA, CEBS, State Social Security Administrator, dated October 10, 2008 to perform all powers, duties and obligations for the efficient administration of the State of Texas Social Security Program (Chapter 606, Texas Government Code, et seq.).
2. Pursuant to Regulation, 20 C.F.R. 404.1204, the State Social Security Administrator shall: Provide information to state and local public employers covered under Agreements in accordance with the Act; and provide information to state and local public employers in accordance with the state's enabling legislation, policies, procedures and standards regarding non-section 218 entities.
3. Texas Election Code et seq. provides for the appointment of election judges by designated elected officials; and as such, election judges are, as designated public officials, per se, employees of the body politic. [See U.S. Treasury Regulation, 26 C.F.R. §1.1402(c)-2(b); I.R.S. Publication 963, available at: <http://www.irs.gov/pub/irs-pdf/p963.pdf> ].
4. Further, Texas Election Code provides that compensation for election judges shall be determined and paid by the governing body calling the election and that compensation for all judges shall be uniform throughout a particular political subdivision.
5. For entities with Section 218 Agreements, the State of Texas has entered into Modification No. 1480 (modifying Texas's §218 Agreement that provides Social Security and Medicare coverage to local governments and state employees). Modification No. 1480 provides for the exclusion of election workers from Social Security and Medicare coverage and taxation when the remuneration paid for services performed by election officials and election workers is less than the adjusted threshold exclusion amount as provided by federal law. For entities

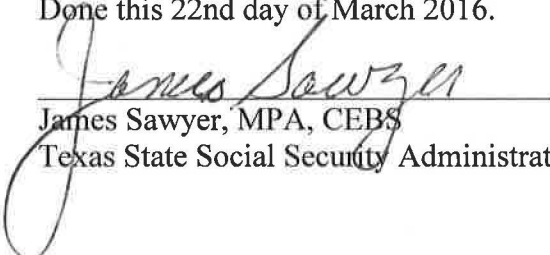
without Section 218 Agreements, 42 U.S.C. 410 (a)(7)(F)(iv) provides for the same exclusion for remuneration under the adjusted threshold exclusion amount as provided by federal law. See paragraph No. 6 below, for the current exclusion threshold.

6. Pursuant to 42 U.S.C. 418(c) the adjusted threshold amount is \$1,700 for calendar year 2016. Should compensation be above this amount, the remuneration is subject to Social Security and Medicare tax and withholding from dollar one (\$1), i.e., the full amount. [See: [http://www.socialsecurity.gov/slge/election\\_workers.htm](http://www.socialsecurity.gov/slge/election_workers.htm) ]
7. Compensation of election workers is not subject to income tax withholding, but if an election workers' compensation is not subject to withholding of Social Security and Medicare tax, Form W-2 reporting is required for payments that aggregate \$600 or more in a calendar year. [See Revenue Ruling 2000-6 and I.R.S. Publication 963]
8. This election worker exclusion applies only to those workers performing election work, for example, poll watchers, and does not apply to those whose normal job duties include conducting elections, for example, county clerks. If an election worker performs other duties for the entity in the course of their normal employment, wages for the election work need to be kept separate and the exclusion applied. For example, Mr. Smith's normal course of employment is that of a building inspector at a salary of \$2,000 per month. He also performs the function of a poll watcher during elections where he receives additional \$900 for this work. Provide a separate accounting for the election work wages (\$900) and apply the exclusion for Social Security and Medicare to this amount. As the amount is over \$600, however, this additional amount (\$900) is required to be reported on Form W-2.
9. Note that this State Social Security Administrator Advisory applies to Social Security and Medicare tax exclusions. It should not be interpreted to apply to federal income tax withholding requirements. See the Internal Revenue Service website and publications for your responsibilities in that regard.

Please contact the Texas Social Security Program with any questions or concerns.

200 E. 18<sup>th</sup> Street  
Austin, TX 78701  
Tele: 512 867-7373  
or  
[jsawyer@ers.state.tx.us](mailto:jsawyer@ers.state.tx.us)

Done this 22nd day of March 2016.

  
James Sawyer, MPA, CEBS  
Texas State Social Security Administrator