

John Hickenlooper
Governor

Ellen Golombek
Executive Director



DEPARTMENT OF LABOR AND EMPLOYMENT

PUBLIC EMPLOYEES' SOCIAL SECURITY PROGRAM
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Refer: 2013-01

COLORADO STATE SOCIAL SECURITY ADMINISTRATOR ADVISORY

IN RE: State and Local Government Employees Hired on a Temporary Basis in case of Fire, Storm, Snow, Earthquake, Flood, or Other Similar Emergency

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

Please be advised that:

1. This advisory is in furtherance of the delegation from Governor John Hickenlooper to the Executive Director of the Department of Labor and Employment, Ellen Golombek, dated September 22, 2011, to perform all powers, duties and obligations for the efficient administration of the Public Employees' Social Security Act (C.R.S. 24-53-101, et seq.) and further delegation from Ellen Golombek, Executive Director Colorado Department of Labor and Employment, to Dr. Maryann Motza, State Social Security Administrator, dated September 26, 2011.
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. The definition of "Emergency Workers" does NOT include regular police and firefighter positions (including regular "volunteer" fire positions). The following exemptions from the FICA tax DO NOT apply to ordinary positions for whom normal withholding practices need to be followed. For the Emergency Worker exception to apply the workers must be hired on a **temporary basis** to assist with immediate recovery and rescue operations but DOES NOT include workers regularly employed by the entity (even if such work is now in response to the emergency).
4. Pursuant to Internal Revenue Code § 3121(b)(7)(F)(iii) individuals as an employee of a state or local government serving on a *temporary basis* in case of fire, storm, snow, earthquake, flood, or other similar emergency are *exempt* from FICA (Federal Insurance Contribution Act) taxes.
5. Similarly, 42 U.S.C. 410(a)(7)(F)(iii) provides that the *taxes* imposed by the Social Security Act *do not apply* to individuals as an employee of a state or local government serving on a *temporary basis* in case of fire, storm, snow, earthquake, flood, or other similar emergency.

IN RE: Emergency Worker Social Security and Medicare Tax Exclusion
September 30, 2013

6. Political subdivisions that provide Social Security coverage to their employees through a Section 218 Agreement that hire temporary workers for the emergency should not withhold FICA on the temporary emergency workers as they are barred from Social Security coverage under the Section 218 Agreement pursuant to 42 U.S.C. 418(c)(6)(E).
7. This exemption only applies to FICA taxes and does not apply to contributions that may be required by any public pension plan. Such pension contribution may be required. Please check with your pension system for what is required.

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

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Done this 30th day of September 2013.



Maryann Motza, PhD
Colorado State Social Security Administrator