

## **PESS Terminology**

### **Absolute Coverage Group (also called a “non-retirement coverage group):**

For Section 218 coverage purposes, a group of employees whose positions are not covered under a public retirement system; also referred to as a “non-retirement system coverage group” or a “Section 218(b)(5) coverage group”.

### **Alternative Lookback Rule:**

An optional method for determining whether an employee can be treated as a qualified participant in a retirement plan for purposes of determining whether mandatory social security applies. Under this rule, an employer may treat an employee as a qualified participant in the first year of employment if it is reasonable to believe the employee will be a qualified participant on the last day of the plan year. An employer may treat an employee as a qualified participant in a calendar year if the employee was a qualified participant at the end of the previous plan year. See Section 31.3121(b)(7)-2(d)(3), Employment Tax Regulations.

### **Continuing Employment Exception:**

Provision for exclusion of an employee from Medicare tax and coverage for services of a state or local government employee who is not covered by a Section 218 Agreement and is a participant in a public retirement system and meets all of the following requirements: the employee was performing regular and substantial services for remuneration for the employer before April 1, 1986; the employee was a bona fide employee on March 31, 1986; the employment relationship was not entered into for purposes of avoiding the Medicare tax; and the employment relationship with the employer has not been terminated after March 31, 1986.

### **Coverage Groups:**

Categories of state and local government employees with respect to a Section 218 Agreement. There are two types of coverage groups: Absolute coverage groups, composed of employees in positions not covered under a retirement system; and, Retirement system coverage groups, composed of employees in positions covered by a retirement system. The Social Security Act gives each state the right, within the limits of state and federal laws, to decide which coverage groups are to be included under its Agreement and any modifications to the Agreement.

### **Defined Benefit Plan:**

An employer plan that determines retirement benefits under a formula, generally based on age, years of service and salary level.

### **Defined Contribution Plan:**

An employer plan that provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains, losses and forfeitures of accounts of other participants that may be allocated to the participant's account.

### **Earnings Record:**

The information maintained by the Social Security Administration for an individual indicating social security and Medicare covered wages and self-employment income. Each individual's record is accessed by social security number (SSN).

**Employee:**

Generally any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, is subject to the employment tax requirements of Internal Revenue Code (IRC) 3121 and 3401. The term is defined for social security and Medicare purposes in Sections 210(j) and 218(b)(3) of the Social Security Act and IRC section 3121(d).

**Employer Identification Number (EIN):**

A unique nine-digit identification number assigned by IRS to state and local governments, businesses, and other entities for tax-filing and reporting purposes, including withholding and paying FICA taxes. An entity can obtain an EIN by filing Form SS-4, Application for Employer Identification Number, with the IRS.

**Entity:**

A separate legal “person,” that is not an individual; includes a corporation, partnership, LLC, or a political unit, including a state, a political subdivision, a wholly-owned instrumentality, a municipality, etc.

**Federal Insurance Contributions Act (FICA):**

Federal statute providing for payroll tax deduction to fund social security and Medicare coverage.

**Federal-State Agreement:**

Also known as a “Section 218 Agreement”; see Section 218 Agreement for details.

**Federal Unemployment Tax Act (FUTA):**

Federal statute imposing tax on employers in order to provide for payments of unemployment compensation to workers who have lost their jobs.

States and political subdivisions of a state are exempt from paying FUTA, but under state unemployment law, most state and local government employees must be covered for state unemployment insurance.

**Fee-Based Public Official:**

A public official who receives and retains remuneration directly from members of the public; for example, a justice of the peace. An official who receives payment for services from government funds in the form of a wage or salary is not a fee-based public official, even if the compensation is called a fee.

**FICA** - Federal Insurance Contributions Act; refers to social security and Medicare taxes withheld from wages to fund the social security system.

FICA replacement plan – See “Public Retirement System.”

**FRA (Full Retirement Age):**

The age at which unreduced social security benefits are payable. Depending on the date of birth, an individual’s FRA ranges from 65 to 67.

**Full Social Security:**

Coverage for both the Old-Age, Survivors, and Disability Insurance (OASDI) program and Medicare Hospital Insurance (HI). Both the employer and employee pay these taxes.

**FUTA** - Federal Unemployment Tax Act; refers to tax paid by employers to fund unemployment insurance. Government employers are generally not subject to FUTA.

**Governmental Function:**

Activity normally associated with the authority of government, legislative, executive, judicial, such as the control and prevention of crime, promoting the general welfare, and providing for public safety. Income derived from any essential governmental function is exempt from federal income tax under IRC section 115.

**HI** - Hospital Insurance (Medicare Part A).

**Indian Tribal Government:**

The governing body of any federally recognized tribe, band, community, village or group of Indians or Alaska Natives that is determined by the Secretary of the Treasury, with the Secretary of the Interior, to exercise governmental functions, under IRC section 7701(a)(40). Under IRC section 7871, an Indian tribal government is treated as a state for certain purposes. Likewise, a subdivision of an Indian tribal government is treated as a political subdivision of a state if that the subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian Tribal government.

However, a tribal government is not a “state” for purposes of Section 218 and is not eligible for a Section 218 Agreement.

**Interstate Instrumentality:**

An independent legal entity organized by two or more states to carry out one or more governmental functions. For purposes of a Section 218 Agreement, an interstate instrumentality has the status of a state.

**IRC** - Internal Revenue Code.

**IRS** - Internal Revenue Service.

**Mandatory Exclusions:**

Categories of services that are not covered for social security under Sections 210 and 218 of the Social Security Act. These exclusions should not be confused with the different set of exclusions that apply to those services not covered under the Section 210 mandatory social security provisions.

**Mandatory Medicare (HI):**

Medicare tax and coverage not included as part of a Section 218 Agreement; imposed on all state and local government employees hired or rehired after March 31, 1986.

**Mandatory Social Security:**

Required social security coverage for state and local government employees who are not members of a public retirement system and who are not covered by a Section 218 Agreement; effective July 2, 1991.

**Medicare:**

Federally established health insurance program for people age 65 and older and certain people with disabilities. Part A (Hospital Insurance – HI) is financed through employer and employee taxes on covered wages/self-employment or by individual payment of monthly

premiums. Part B (Supplemental Medical Insurance – SMI) is financed by individuals paying monthly premiums.

**Medicare Qualified Government Employment (MQGE):**

Services of state and local government employees subject to Medicare tax but not to social security tax.

**Modification:**

An amendment to an original Section 218 Agreement to extend coverage to additional groups of employees or to implement changes in federal and state laws. Each modification, like the original Agreement, is a legally binding document.

**MQGE** – Medicare Qualified Government Employment.

**NCSSSA (National Conference of State Social Security Administrators):**

Professional association of State Social Security Administrators. These state officials are authorized by state law to administer Section 218 Agreements with the Social Security Administration and responsible for all other activities associated with federal and state laws addressing social security and Medicare coverage of state and local public employers. Additional duties of individual State Administrators vary from state to state.

**Non-Covered Employment:**

Employment not covered by social security under the Social Security Act and the Internal Revenue Code.

**Nonproprietary Function:**

Governmental activity integral to the operation of a state or political subdivision, e.g., maintaining order or levying tax; distinguished from activity in the nature of a private or commercial venture).

**Old-Age, Survivors and Disability Insurance Program (OASDI):**

Program administered by the Social Security Administration, providing monthly benefits to retired and disabled workers, their spouses and children, and to survivors of insured workers.

**Optional Exclusions:**

Categories of services that, under social security law, may be included or excluded from coverage under a Section 218 Agreement at the option of the state.

**Parallel Social Security Office (PSSO):**

The SSA office, usually located in the state capital, responsible for day-to-day negotiations with the states on state and local coverage issues.

**Pension Plan:**

A plan that provides systematically for the payment of definitely determinable benefits to employees over a period of years, usually for life, after retirement. Retirement benefits are generally determined by factors such as an employee's years of service, age, and compensation.

**Plan and Agreement:**

The agreement entered into between the state and the public employer who has opted into voluntary Social Security (or Medicare-only) coverage of all or some of its employees through either the State's original Section 218 Agreement or by a Modification of the original agreement. See, also, Section 218 Agreement and Modification.

**Political Subdivision:**

A separate legal entity of a state that has governmental powers and functions. Examples of political subdivisions include a county, city, town, village, school district and other similar governmental entities.

**Proprietary Function:**

Function of a governmental entity, such as a business venture for profit or in competition with private industry, or other discretionary act on behalf of citizens, that by its nature is not an integral governmental activity.

**PSSO** – Parallel Social Security Office.

**Public Retirement System:**

(Also called a “FICA replacement plan”) A plan, fund or system established by a state or political subdivision for the purpose of providing retirement benefits to employees that meets the tests under IRC section 3121(b)(7)(F) and section 31.3121(b)(7)- 2(e) of the Employment Tax Regulations. A public retirement system may be a pension, annuity, retirement, or similar system. For this purpose, it is irrelevant whether a public retirement system is a “qualified plan” within the meaning of the Employees’ Retirement Income Security Act of 1974 (ERISA). See Revenue Procedure 91-40 for safe-harbor formulas for defined benefit retirement systems.

**Qualified Participant:**

An individual who is (or has been) an actual participant in a public retirement system and who has a total accrued benefit under the retirement system that meets the minimum retirement benefit requirements of IRC section 3121(b)(7) and regulations thereunder. Section 31.3121(b)(7)-2(d) of the Employment Tax Regulations establishes standards for defined contribution retirement systems.

**Qualifying FICA Replacement Plan:**

A public retirement system that meets the minimum requirements of OBRA 1990 (mandatory Social Security).

**Retirement System** – See Public Retirement System.

**Retirement System Coverage Group:**

A group of employees whose positions are covered under a retirement system by referendum under the provisions of Section 218(d). The retirement system does not need to meet the tests under IRC Section 3121(b)(7)(F) and Section 31.3121(b)(7)-2(e) of the Employment Tax Regulations to secure coverage under a Section 218 Agreement.

**SECA** - Self Employment Contributions Act.

**Section 218 Agreement:**

Voluntary agreement between a state and the Commissioner of Social Security (prior to March 31, 1995, the Secretary of Health and Human Services); allows states to voluntarily provide social security and Medicare or Medicare-only coverage for the services of state and local government employees. The Section 218 Agreements cover positions, not individuals; if the position is covered under the agreement, then any employee filling that position is subject to FICA taxes.

**Self-Employment Contributions Act (SECA):**

Federal statute imposing tax on the net earnings of self-employed individuals, to fund social security and Medicare.

**Social Security Act (Act):**

Federal statute providing Old-Age, Survivors and Disability Insurance (OASDI) and Hospital Insurance (Medicare), as well as other benefits.

**Social Security Administration (SSA):**

An independent agency in the executive branch of the federal government responsible for administering the Old-Age, Survivors and Disability (OASDI) insurance program and for determining eligibility for Medicare benefits.

**Social Security Statement:**

Annual statement issued by SSA to workers, with information about their individual social security and Medicare earnings as reported by employers, with estimates of the different types of benefits for which they and their family may qualify.

**Social Security Number (SSN):**

The identification number assigned by the Social Security Administration to individuals. It must always be used in reporting an individual's earnings and in correspondence regarding specific employees. Each individual's earnings record is maintained under this number.

**State:**

For purposes of a Section 218 Agreement, one of the fifty states, Puerto Rico, the Virgin Islands and interstate instrumentalities. The term, for this purpose, does not include the District of Columbia, Guam or American Samoa.

**State Social Security Administrator (SSSA or State Administrator):**

The principal state official authorized by state law to administer the Section 218 Agreement with the Social Security Administration, responsible for all other activities associated with applicable federal and state laws addressing social security and Medicare by state and local public employers in the state.

**Taxpayer Identification Number (TIN):**

The number used to identify employee (SSN) or employer (EIN) for tax reporting purposes.

**Wage Base:**

The maximum amount of wages of each worker that is subject to the OASDI portion of social security tax in any calendar year. The social security wage base is adjusted annually. There has been no wage base limit for Medicare since 1994.

**Wholly-Owned Instrumentality:**

An entity created by or pursuant to state statute to carry on a governmental function of a state or political subdivision. It is an independent legal entity with the power to hire, supervise, and discharge its employees and, generally, it may sue and be sued, may enter into contracts, and may hold or transfer property in its own name. Normally a wholly-owned instrumentality of a state or political subdivision does not exercise governmental powers, e.g., the police power, the taxing power and the power of eminent domain. An instrumentality can also be created by a state and a political subdivision, by more than one political subdivision, or by more than one state. See "Interstate Instrumentality."