

# Internal Revenue Service requirements

State called Township Meeting

January 2017

# Resources

- ▶ Government Entity Customer Service Inquires
  - ▶ Monday-Friday 8:00 a.m. - 5:00 p.m.
  - ▶ 1-877-829-5500
- ▶ Employment Tax Return/Notices
  - ▶ Monday-Friday 7:00 a.m. - 7:00 p.m.
  - ▶ 1-800-829-4933 or [tege.ask.fslg@irs.gov](mailto:tege.ask.fslg@irs.gov)
- ▶ Electronic Federal Tax Payment System Customer Service
  - ▶ 24/7
  - ▶ 1-800-555-4477
- ▶ IRS website - [irs.gov/govt](https://irs.gov/govt)
  - ▶ Tax Publications
- ▶ IRS Advocacy Office - Indianapolis
  - ▶ (317) 685-7840

# Government Workers: Employees or Independent Contractors?

- ▶ <https://www.irs.gov/government-entities/federal-state-local-governments/government-workers-employees-or-independent-contractors>
- ▶ The following types of government workers are covered by special rules:
  - ▶ Public Officials - Internal Revenue Code section 3401(c) indicates that an “officer, employee, or elected official” of government is an employee for income tax withholding purposes. If this is the case, generally these workers will also be employees for social security and Medicare tax purposes; however, in some special cases the law or a Section 218 Agreement may specify otherwise.
  - ▶ Elected Officials - Elected officials are employees for income tax purposes under the section 3401(c) provision that applies to public officials. They are subject to a degree of control that typically makes them employees under the common law, and are subject to social security and Medicare taxes.
  - ▶ Emergency Workers - Individuals hired on a temporary basis in case of fire, storm, snow, earthquake, flood, or other emergency are excluded from social security and Medicare under IRC 3121(b)(7)(F)(iii). This does not include permanent employees who work regularly in response to emergencies; these individuals are subject to social security and Medicare if they are common-law employees.

# Classification of Elected and Appointed Officials

- ▶ <https://www.irs.gov/government-entities/federal-state-local-governments/classification-of-elected-and-appointed-officials>
- ▶ Generally, if there is any provision in a public law that authorizes the employment of the individual, and the individual is hired or elected under this authority, the individual is considered an employee of the state or political subdivision to which the provision applies
- ▶ Generally, any individual who serves as a public official is an employee of the government for whom he or she serves. Therefore, the government entity is responsible for withholding and paying Federal income tax, social security and Medicare taxes, and issuing Form W-2, Wage and Tax Statement, to a public official.
- ▶ The regulations for section 1402, addressing the applicability of self-employment tax, indicate that holders of “public office” are not in a trade or business and therefore not subject to self-employment tax. These regulations state that the performance of the functions of a public office does not constitute a trade or business. An exception applies for certain public officials paid solely on a fee basis. All other holders of public office, paid on a salary basis, are excepted from self-employment tax and are presumed to be employees receiving wages.

# Elected or Appointed Officials

- ▶ Always considered employees for Federal Income Tax Withholdings per IRC 3401(c).
- ▶ Usually be considered employees for FICA (Social Security and Medicare) withholding per IRC 3121(d)(2) due to their position being established by law, their duties defined by statute, they are responsible to the public, and they are paid out of government funds.

# Firefighters

- ▶ In general, Township Firefighters would be considered employees of the Township based on the Common Law requirements. Therefore, they should have payroll taxes withheld (Federal Income and FICA).
- ▶ Payments made to Volunteer Firefighters need to be evaluated and things to consider would include:
  - ▶ Per diem/Per call and Training/Meeting payments should be considered wages and would require withholding payroll taxes
  - ▶ Allowances or Reimbursements for clothing depends on if the individual is following an Accountable Plan or a Non-Accountable Plan

# Employer's Obligations

- ▶ When an employee is hired, the Township should ask the employee to submit a W-4 form. If a W-4 form is not on file then the Township should withhold payroll taxes at the Single rate with zero allowances.
- ▶ Township is required to withhold and remit all applicable federal payroll taxes for its employees
- ▶ Township is required to maintain adequate books and records to substantiate the transactions for compensation, withholding, and remitting for all of its employees.
- ▶ Township is required to file applicable federal forms with the IRS.

# Employer Records and Requirements

- ▶ The Township must keep all payroll records for a minimum of 4 years.
- ▶ Payroll records include those used that would detail the following information:
  - ▶ By Employee - Name, Social Security Number, Home Address, Date Hired, Date Terminated/Reason for Termination
  - ▶ By Pay Date - Check Number, Date Paid, Gross Earnings, Description and Amount of each Deduction, Net Earnings
- ▶ Federal 941 is filed quarterly to report wages and other payments subject to federal income tax, Social Security, and Medicare withholdings.
  - ▶ Townships must file every quarter, unless they qualify for form 944
  - ▶ Due in the month following the close of the quarter (due in April, July, October, January)
- ▶ Federal 944 is filed by those employers with tax liability less than \$1,000.
  - ▶ IRS will notify you if you are eligible and you can still request to file 941 instead
  - ▶ Due in the month following the end of the calendar year (subsequent January)
- ▶ Employers are required to furnish a W-2 to all employees by January 31<sup>st</sup> of the subsequent year.
  - ▶ W-2s and W-3 cover sheet are required to be filed with the Social Security Administration by January 31<sup>st</sup> of the subsequent year.

# Employer Records and Requirements cont.

- ▶ Federal income tax, Employee FICA withholdings and Employer FICA matches are required to be remitted/deposited with the IRS.
- ▶ There are three schedules of deposits:
  - ▶ Quarterly - only applicable for Townships that qualify to use 944 report and your liability is \$2,500 or more for the year, but less than \$2,500 for the quarter.
  - ▶ Monthly - applicable for Townships with less than \$50,000 in tax liability for the prior period.
  - ▶ Semi-Weekly - applicable for Townships with greater than \$50,000 in tax liability for the prior period.
- ▶ Per IRS Publication 15 Monthly and Semi-Weekly Townships must deposit/remit federal payroll taxes electronically.
  - ▶ Deposits can be made via the telephone or by using the Electronic Federal Tax Payment System (EFTPS). [www.eftps.gov](http://www.eftps.gov)
- ▶ Payments not made by the due dates or the appropriate method are subject to a penalty and interest charge ranging from 2%-15%.

# Required IRS forms for Vendor Payments

- ▶ W-9
  - ▶ Required for reportable payments of \$600
  - ▶ Payee certifies that they are not subject to backup withholdings (28%)
  - ▶ Provides information needed to prepare Form 1099-Misc
- ▶ Form 1099-Misc
  - ▶ Required for payments exceeding \$600 to sole proprietors and partnerships
  - ▶ Common payments include rent (box 1) and services performed by nonemployees (box 7). All attorney fees.
  - ▶ Provide to vendor and the IRS by January 31<sup>st</sup>
- ▶ Form 945
  - ▶ Required for reporting and making payments of Backup Withholding