

Questions received from South Dakota School Business Managers:

Q. If the board makes a monthly annuity payment in lieu of payment on part of the health insurance premium for teachers, is the annuity amount that the board pays subject to SS/Med and FIT? (This would be part of the teachers negotiated agreement.)

A: If the board is making monthly annuity payments in lieu of the health insurance premium then the amount that the Board pays is subject to SS/Med and FIT. Why? Because the payment is being given to the teacher for something other than what it was intended for, in other words health insurance premiums.

Q. This is language in our teacher's negotiated agreement:
If a teacher has extracurricular duty responsibilities for which the teacher receives compensation the teacher shall receive the amount of compensation if full after the board meeting following the conclusion of the activity and receive the same with the teacher's next regular pay check, in a separate check.

What rate of federal income tax needs to be applied to the separate extra duty check?

- The employee's designated tax withholding rate from their W-4?
- Or a fixed rate?

A. For any extracurricular duty responsibilities the compensation would just be included in salary. If you want to make it into a separate check for bookkeeping purposes, fine. But it will be subject to the required withholdings.

The rate would be whatever is reflected on the W-4. You can also refer to page 60 of the Employer's Tax Guide, Publication 15, see table #8 for Daily or Miscellaneous Payroll Periods.

Q. The biggest problem is the employee vs. independent contractor. If independent contractor, are there certain things to include in the contract to make it easier to sell?

A. I'm not sure that I understand the question. A basic contract is between two parties to do a certain job, in a certain amount of time, for a specified amount of money.

Now there may be certain things put into the contract that the payer may require of the payee such as when the contractor can work. For example you may require them to work after normal business hours so as not to interrupt your daily work routine. Doing this will not jeopardize the relationship.

Q. Can a School District contract with custodians as an independent contractor?

A. Regarding custodians, normally they are employees and for obvious reasons. If the contractor that you are contracting has his/her own business and equipment and supplies, then it is possible to have an Independent Contractor relationship.

In most situations that I've been exposed to, the custodian is sort of a jack-of-all-trades or handyman, if you will, who is at the beck and call of the administration. Usually these are full time positions and some schools may have more than one custodian. In addition, all of the South Dakota schools entered into a 218 Agreement with Social Security back in 1951 to include all part-time and full-time employees for social security and Medicare. Once an employee position, it pretty much stays that way. It cannot be revoked.

These are some of the types of questions I received at the North Dakota Association of School Business Managers.

Q: I have set up a payroll code for same day meals. What box on the W-2 should reflect these meals? How should it be labeled?

A: Place in Box 14 of the W-2, and label "day meeting meal reimbursement." Also see the W-2 instruction booklet concerning box 14.

Q: What if you know that you are supposed to report and pay taxes on the same day meal reimbursement and your Superintendent tells you not to do it and even campaigns the Board to have you stop complying? Or, does not believe you about you about compliance issues and spends hours reading IRS publications and now is the authority?

A: See our Fringe Benefits Handbook page 17 and also 38. IRC Section 162 and Revenue Rulings 75-170 and 75-432 provide guidance for this issue.

Q: Business Managers are reporting they are having difficulties obtaining W-9s from Sports Officials (referees). Many officials feel they give their information to the North Dakota High School Activities Association and that should be enough. Is this correct?

A: Whoever pays the monies will issue a 1099, if over \$600, to the recipient. If they do not complete a valid W-9 you must withhold at 28% of the payment for "backup withholding." See the W-9 and instructions concerning this issue.

Q: When the IRS conducts a compliance check, what do you look at? Do you have a checklist?

A: We usually look at one year, the most current if possible. The following is what we review: Forms 941, 945, W-2, W-3, W-4, W-9, 1096, and 1099.

Q: Can an employee donate their paycheck back to the school without payroll taxes taken out?

A: No. Wages are subject to withholding. If they want to make a contribution to the school they will do it on their 1040 return, schedule A.

Q: What are the rules on Student Workers? Can they be paid for their time and be exempt from FICA?

A: See Publication 15, Circular E, page 34 which addresses this issue. Also see handout from the State & Local Coverage Handbook, section 440 which also addresses this issue.