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# Treasury Financial Manual

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## Chapter 5000

### WITHHOLDING OF DISTRICT OF COLUMBIA, STATE, CITY, AND COUNTY INCOME OR EMPLOYMENT TAXES

This chapter prescribes instructions for withholding state, city, or county income taxes when an agreement has been reached between a state, city, or county and the Secretary of the Treasury (Secretary).

#### Section 5010—Scope and Applicability

Agreements between the Secretary and states, cities, or counties prescribe how federal agencies withhold income or employment taxes from the compensation of federal employees and armed forces members (see 31 CFR Part 215 in Appendix 1).

A list of states that have entered into agreements, the effective date of the agreement, and the designated state tax offices to receive inquiries are included in Appendix 2. A list of cities and counties that have entered into agreements, the effective date of the agreement, the type of tax to be withheld for each city or county, and the designated city or county tax offices to receive inquiries are included in Appendix 3. A list of states, cities, and counties with other-than-standard agreements is in Appendix 4.

#### Section 5015—Authority

Section 5517 of Title 5 of the United States Code and Executive Order 11997 (June 22, 1977) provide for withholding state income taxes from the compensation of federal employees and members of the armed forces when an agreement is made between the Secretary and the proper state official.

To comply with Section 5516 of Title 5 of the United States Code (47 D.C. Code 15862) and Executive Order 11997 (June 22, 1977), the Secretary and an official of the District of Columbia entered into an agreement for withholding District of Columbia income taxes from the compensation of federal employees and armed forces members.

Section 5520 of Title 5 of the United States Code and Executive Order 11997 (June 22, 1977) authorize the Secretary to make an agreement with the proper official of an eligible state, city, or county for withholding city or county income or employment taxes from federal employees compensation.

The Code of Federal Regulations (31 CFR Part 215) governs withholding of state, city, and county taxes. It prescribes requirements for making agreements and contains the text of a standard agreement.

#### Section 5020—Definition of Terms

**Agency**—each of the executive agencies and military departments (as defined in 5 U.S.C. 105 and 102, respectively) and the United States Postal Service; and in addition, for city or county withholding purposes only, all elements of the judicial branch.

**City**—any unit of general local government

(1) which

(A) is classified as a municipality by the United States Bureau of the Census, or

(B) is a town or township which, in the determination of the Secretary of the Treasury,

(i) possesses powers and performs functions comparable to those associated with municipalities, and

(ii) is closely settled, and

(iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census, and

(2) within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government.

**City income or employment taxes**—any form of tax for which, under a city ordinance, (1) collection is provided by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to a designated city officer, department, or instrumentality; and (2) the duty to withhold generally is imposed on the payment of compensation earned within the jurisdiction of the city in the case of employees whose regular place of employment is within such jurisdiction. Whether the tax is described as an income, wage, payroll, earnings, occupational license, or otherwise is immaterial.

**Compensation**—as applied to employees of an agency and members of the Armed Forces means "wages" as defined in 26 U.S.C. 3401(a) and regulations issued thereunder.

**County**—any unit of local general Government which is classified as a county by the Bureau of the Census and within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government.

**County income or employment taxes**—any form of tax for which, under a county ordinance, (1) collection is provided by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to a designated county officer, department, or instrumentality; and (2) the duty to withhold generally is imposed on the payment of compensation earned within the jurisdiction of the county in the case of employees whose regular place of employment is within such jurisdiction. Whether the tax is described as an income, wage, payroll, earnings, occupational license, or otherwise is immaterial.

**District of Columbia income tax**—the income tax imposed under 47 District of Columbia Code, Chapter 15, Subchapter II.

**Employees for the purpose of State income tax withholding**—all employees of an agency, other than members of the Armed Forces. For city and county income or employment tax withholding it means:

(i) Employees of an agency,

(ii) Members of the National Guard, participating in exercises or performing duty under 32 U.S.C. 502, or

(iii) Members of the Ready Reserve, participating in scheduled drills or training periods, or serving on active duty for training under 10 U.S.C. 270(a).

The term does not include retired personnel, pensioners, annuitants, or similar beneficiaries of the Federal Government who are not performing active civilian service or persons receiving remuneration for services

on a contract-fee basis.

**Employees for purposes of District of Columbia income tax withholding**—employees as defined in 47 District of Columbia Code 1551c(z).

**Members of the Armed Forces**—(1) all individuals in active duty status (as defined in 10 U.S.C. 101(d)(1)) in regular and reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard, and (2) members of the National Guard while participating in exercises or performing duty under 32 U.S.C. 502, and members of the Ready Reserve while participating in scheduled drills or training periods or serving on active duty for training under 10 U.S.C. 10147.

**Ordinance**—an ordinance, order, resolution, or similar instrument which is duly adopted and approved by a city or county in accordance with the constitution and statutes of the State in which it is located and which has the force of law within such city or county.

**Regular place of Federal employment**—the official duty station, or other place, where an employee actually and normally (i.e., other than in a travel or temporary duty status) performs services, irrespective of residence.

**Secretary**—Secretary of the Treasury and Fiscal Assistant Secretary or his designee.

**State**—a state, territory, possession, or commonwealth of the United States or the District of Columbia.

**State income tax**—any form of tax for which, under a State statute, (1) collection is provided, either by imposing on employers generally the duty of withholding sums from the compensation of employees and making returns of such sums to the State or by granting to employers generally the authority to withhold sums from the compensation of employees, if any employee voluntarily elects to have such sums withheld; and (2) the duty to withhold generally is imposed, or the authority to withhold generally is granted, with respect to the compensation of employees who are residents of such State.

## **Section 5025—Severance Pay**

Federal employees' compensation subject to withholding of state, city, or county income or employment taxes includes severance pay, according to 5 U.S.C. 5595, if paid to a former employee. Severance pay remaining unpaid upon the death of a former employee is not subject to such withholding upon payment to a survivor or survivors.

## **Section 5030—Administration of Agreements**

### **5030.10—Agency Responsibility**

The heads (or designees) of agencies must comply with the provisions in the agreements and with state laws, city or county ordinances, regulations, and instructions concerning withholding taxes, filing returns, and paying taxes. Agencies should consult directly with tax authorities for obtaining forms and instructions. Agencies are to withhold the state, city, or county income or employment taxes only for those states, cities, and counties identified in Appendices 2 and 3. The E-Commerce Division (see contacts) will be consulted when an agency is requested to withhold a tax not identified in the appendices to this chapter as eligible for withholding.

### **5030.20—Reciprocal Agreements**

Requirements of states for withholding income tax may be modified by reciprocal agreements among states. These agreements generally relieve nonresident employees of their tax liability to the state in which they are employed. They also relieve their employer of the duty to withhold such taxes. To comply with Treasury-State withholding agreements, agencies must conform to the withholding provisions of reciprocal agreements.

### **5030.30—Withholding Agent**

Agencies may use the same designated officers or employees for withholding state and city or county income or employment taxes as they use for withholding federal taxes. When required by the state, city, or county, the appropriate authorities will be provided the names of the federal officers or employees who are designated to perform the withholding duties.

### **5030.40—Report of Noncompliance**

At the request of the Secretary, agency heads will furnish a report of noncompliance with provisions of any agreement or any information connected with the administration of the agreements.

## **Section 5035—Withholding Requirements**

### **5035.10—State Tax Withholding**

State tax withholding is required for agency employees who are subject to the tax and whose regular place of federal employment is within the political boundaries of the state that has entered into an agreement. (See Section 5045 for military withholding instructions.)

### **5035.20—City or County Tax Withholding**

City or county tax withholding is required for agency employees who are subject to the tax and (1) whose regular place of federal employment is within the city or county that has entered into an agreement or (2) is a resident of the city or county.

### **5035.30—Regular Place of Federal Employment**

Generally, an “official duty station” is designated for federal employees where they report regularly to perform their services. In the case of employees whose duties are performed at a place other than their “official duty station,” the regular place of federal employment is the place where the employees regularly perform their duties.

### **5035.40—Services Performed Outside a City or County**

Many city and county ordinances provide that withholding will be based on compensation paid for services performed only within the city or county. In most cases, this provision applies only to nonresidents of the city or county. Employees affected by this provision, who perform part of their services outside of the city or county away from their regular place of employment, must complete a withholding certificate. The certificate is to estimate the percentage of their annual compensation for services performed outside the city or county so withholdings may be reduced accordingly. In the absence of such certification, tax must be withheld on the employees’ entire compensation.

To avoid large numbers of withholding actions, when only a moderate difference between the employees' annual compensation and the estimated percent paid for services performed within the city or county exists, agencies should reduce withholdings only when employees perform 25 percent or more of their services outside the city or county. FS Form 7311: Employee's Withholding Certificate for Local Taxes—City or County (Appendix 5), contains these instructions.

### **5035.50—Withholding Methods**

The amount of state, city, or county income or employment tax withheld from the compensation of an employee or member of the armed forces must, at a minimum, approximate the tax required to be withheld. Withholding may be accomplished as follows:

- based on the applicable tax withholding rate(s) specified in the state, city, or county instructions,
- based on any other percentage or formula method, or
- calculating a fixed amount to be deducted each pay period from the compensation of the employee or member of the armed forces.

## **Section 5040—Tax Withholding Certificates**

### **5040.10—Withholding Certificate Requirement**

Each agency may require its employees to complete a withholding certificate as the basis to properly withhold state and local taxes. The certificate should specify if the employee is subject to the tax, the employee's residence and regular place of employment, exemptions, allowances (if applicable), and if an out-of-state employee consents to have city or county taxes withheld. A supervisor or designated employee should verify that the withholding certificate has been properly prepared. An agency may rely on the withholding certificate information unless it is contrary to information already held by the agency. The certificate will remain in effect until superseded by a new certificate prepared by the employee.

### **5040.20—Submission or Non-submission of Withholding Certificate**

A withholding certificate completed by an employee gives the agency all the information to properly withhold tax. If an employee does not furnish a withholding certificate as requested by the agency, the agency will withhold at the maximum level applicable to the employee's annual compensation. This latter provision does not apply to an employee who may opt for voluntary withholding; in this case, failure to submit a withholding certificate will be considered a refusal of the withholding option available to the employee (Section 5065).

### **5040.30—Forms To Be Used**

Agencies may use a withholding or exemption certificate furnished by a state, city, or county, if that document provides all the required information. If it does not, agencies may use a certificate approved by Treasury.

### **5040.40—FS Form 7311: Employee's Withholding Certificate for Local Taxes**

Agencies may use FS Form 7311 if a local taxing authority does not furnish an appropriate certificate. Agencies are requested to reproduce the FS Form 7311 for their own use. Any revision to the form must be

approved in advance as required by [Volume I, Part 1, Chapter 2000](#). However, overprinting the form does not require clearance from Treasury. [FS Form 7311](#) may be obtained from our website.

## **5040.50—Information for States, Cities, or Counties**

Agencies may furnish copies of completed withholding certificates when requested by the taxing authority for which the tax was withheld.

## **Section 5045—Military Withholding**

### **5045.10—Basis for Withholding**

When a state has made an agreement with the Secretary, state income taxes will be withheld from the compensation of members of the armed forces, based on the state of legal residence. Local taxes will be withheld from the compensation of (1) members of the National Guard participating in exercises or performing duty under 32 U.S.C. 502, and (2) members of the Ready Reserve participating in scheduled drills or training periods, or serving on active duty for training under 10 U.S.C. 270(a) if the local taxing jurisdiction has made an agreement with the Secretary.

### **5045.20—Certification of Legal Residence**

Agencies will use DD Form 2058: State of Legal Residence Certificate, (Appendix 6), to (1) determine the state of legal residence for purposes of withholding, (2) record changes of the state of legal residence, and (3) notify the states of changes of legal residence according to the terms of the agreements.

## **Section 5050—Accounting for Withheld Taxes**

The amount withheld each pay period from the compensation of employees or members of the armed forces will be recorded on their individual earnings records. The total amount withheld will be disbursed each pay period from the appropriations from which the payroll is paid and credited to the deposit fund--X6275 "Withheld State and Local Taxes," pending payment to the taxing authority. Agencies will maintain appropriate internal subsidiary records to show (1) the amounts withheld for each tax class and (2) a breakdown of the total taxes withheld for each taxing authority.

## **Section 5055—Correction of Errors**

An error made in a prior pay period of the current calendar year will be corrected if the employee is still on the agency's payroll. Corrections are to be made by adjusting the deduction for the current pay period by an amount sufficient to offset the error in the withheld taxes and the net pay of the employee. If the error occurred in a prior calendar year or the employee is no longer on the payroll, no adjustment should be made.

## **Section 5060—Payment of Withheld Taxes**

### **5060.10—Timing of Payments**

The basic provision in the Treasury agreements is that each federal agency will comply with the withholding requirements of the state, city, or county tax laws. Therefore, the payment requirements (biweekly, monthly, or quarterly) of the state, city, or county tax laws currently in effect will be observed by

each federal agency. However, payment will not be made more frequently than required by the state, city, or county, or more frequently than the payroll is paid by the agency.

## **5060.20—Payment Identification**

Checks will be issued by the disbursing office on the basis of an SF 1166: Voucher and Schedule of Payments, or other approved voucher form. Checks sent to states, cities, counties, or their collection agents will be accompanied by the related tax payment documents prescribed by the states, cities, or counties. If an SF 1166 is used, a copy of the tax payment document will be considered a basic voucher for the payment, and no other voucher is required. The word “Taxes” should be entered in the “Voucher No.” column of the SF 1166.

## **Section 5065—Voluntary Withholding**

### **5065.10—Statutory Election**

When a state tax statute provides for voluntary withholding, federal agencies will withhold state taxes only from those employees or members of the armed forces who elect such withholding.

### **5065.20—Regulations Providing for Voluntary Allotments**

The Office of Personnel Management (OPM) pay regulations 5 CFR 550.351 provide for voluntary payroll deductions of state, District of Columbia, or local income or employment taxes from salaries of federal employees who have a legal obligation to pay, whether or not Treasury has a withholding agreement with their taxing jurisdiction. Agencies may also refer to the Federal Personnel Manual (FPM) Supplement 990-2 of May 11, 1981.

### **5065.30—Accounting for Voluntary Withholding**

The amount of voluntary withholding will be deposited in the deposit fund--X6275 “Withheld State and Local Taxes” and accounted for as prescribed in Section 5050.

## **Section 5070—Disclosure of Withholding Information**

### **5070.10—Annual Wage and Tax Information Returns**

Annual wage and tax information furnished to taxing authorities must comply with the Privacy Act of 1974. If an agency has not obtained prior written consent of an employee or has not published a routine use in the Federal Register, annual wage and tax information will be furnished under this section only to taxing authorities with whom the Secretary has entered into agreements (Appendices 2 and 3).

The information returns will consist of the name, address, social security number, wages (as defined in 26 U.S.C. 3401(a) of the Internal Revenue Code), and the amount of tax withheld, if any.

#### **5070.10a—Disclosure to States**

In the case of an agreement with a State, agencies will provide the indicated information with respect to those employees who (1) are subject to mandatory withholding, or (2) may elect withholding under a state law.

## **5070.10b—Disclosure to Cities or Counties**

Agencies who have an agreement with a city or county will provide the indicated information with respect to employees who are subject to (1) mandatory withholding or (2) city or county taxes, but not subject to mandatory withholding because they are not residents or not employed in the state in which the city or county is located, whether or not they have opted for voluntary withholding (Section 5065).

## **5070.10c—Notices of Routine Use**

Each agency must publish notices of routine use in the Federal Register to comply with the Privacy Act of 1974, indicating the information under this subsection routinely disclosed by such agency to state, city, or county authorities and the circumstances under which such disclosure is made.

## **5070.10d—Additional Disclosure and Inspection of Records**

Agencies are not required by the terms of Treasury's withholding agreements to provide any additional information or more frequent wage and tax information returns to State, city, or county taxing authorities than is outlined in this section, or to submit to any inspection or audit of payroll records by State, city, or county taxing authorities.

## **5070.20—Exemption Certificates**

Employees who would otherwise be subject to mandatory withholding pursuant to an agreement between the Secretary and an applicable state, city, or county authority, may file a certificate indicating that they are not subject to the tax. In such cases, the agency may provide, to the designated official of the state, city, or county imposing the tax, information concerning employees who claim to be exempt from the tax. Such information will include the name, social security number, and the claimed basis for exemption.

Each agency must determine which bases for exemption from the tax are acceptable under the law. Agencies should ensure compliance by requiring the use of appropriate tax exemption certificates.

## **5070.30—Notice to Employees**

Federal agency forms, including withholding and exemption certificates, will comply with the Privacy Act of 1974. When a state, city, or county form is used, each agency must provide the employee from whom the information is solicited a Privacy Act Notice, either on the applicable form or on a separate sheet of paper. A suggested statement follows:

*The following information is provided to comply with the Privacy Act of 1974 (Public Law 93-579). The social security number is required under the authority of Executive Order 9397 to provide taxpayer identification. The other information is required under the provisions of 5 U.S.C. 5516, 5517, or 5520 for the purpose of implementing a federal agreement with the state, city, or county relating to withholding of state, city, or county income or employment taxes to comply with a state law or municipal or county ordinance. The information provided may be disclosed to state, city, or county officials to ensure that the taxpayer's account has been properly credited for the amounts withheld. Failure to disclose the information requested may affect the determination of the accuracy of the amount withheld.*

## **Contacts**



**Direct inquiries concerning this chapter to:**

Department of the Treasury  
Bureau of the Fiscal Service  
Payment Management  
E-Commerce Division (LCB-RM 349B)  
3201 Pennsy Drive, Building E  
Landover, MD 20785  
Telephone: 202-874-9428

**Appendices Listing**

<b>Appendix No.</b>	<b>Title</b>
1	<a href="#"><u>Regulations - Withholding of the District of Columbia, State, City, and County Income or Employment Taxes by Federal Agencies - (31 CFR Part 215)</u></a>
2	<a href="#"><u>List of States, Effective Dates, and Addresses of Tax Offices With Which the Secretary of the Treasury Has Withholding Agreements</u></a>
3	<a href="#"><u>List of Cities, Counties, Types of Tax, Effective Dates, and Addresses of Tax Offices With Which the Secretary of the Treasury Has Withholding Agreements</u></a>
4	<a href="#"><u>List of States, Cities, and Counties With Other-Than-Standard Agreements</u></a>
5	<a href="#"><u>FS Form 7311 - Employee's Withholding Certificate for Local Taxes - City Or County</u></a>
6	<a href="#"><u>DD Form 2058 - State of Legal Residence Certificate</u></a>