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).

Included in Appendix 1 is a list of states that entered into agreements, the effective date of the agreement, and the designated state tax offices to receive inquiries. Included in Appendix 2 is a list of cities and counties that entered into agreements, the effective date of the agreement, the type of withheld tax for each city or county, and the designated city or county tax offices to receive inquiries. Appendix 3 includes a list of states, cities, and counties with other-than-standard agreements.

Section 5015—Authority

5 U.S.C. § 5517 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 5 U.S.C. § 5516 (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.

5 U.S.C. § 5520 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.

Section 5020—Terms and Definitions

The following terms apply to this chapter of the TFM. For additional terms that may be related to this chapter, please view the TFM Glossary.

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

Reciprocal agreements between states may modify requirements for withholding state income tax. 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, agencies will provide the appropriate authorities the names of the designated federal officers or employees who 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 agreement.

**Section 5035—Withholding Requirements**

**5035.10—State Tax Withholding**

State tax withholding is a requirement 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, a designated “official duty station” is where federal employees report regularly to perform their duties. In the case of federal employees who regularly perform their duties at a place other than their “official duty station,” the jurisdiction in which the employee regularly performs their duties will be considered the regular place of federal employment.

**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 based 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 4), contains these instructions. See Subsection 5040.40 for more information on FS Form 7311.

**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.

Agencies may accomplish withholding by one of the following methods:

- 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
- by calculating the fixed amount 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 is 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. This may require agencies 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 I, Chapter 2000. However, overprinting the form does not require clearance from Treasury. Obtain a copy of FS Form 7311 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 withholding the tax.

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. § 10147 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 5), to:

- determine the state of legal residence for purposes of withholding,
- record changes of the state of legal residence, and
- notify the states of changes of legal residence according to the terms of the agreements.

Section 5050—Accounting for Withheld Taxes

The agency should record the amount withheld each pay period from the compensation of employees or members of the armed forces on their individual earnings records. The agency should disburse the total amount withheld 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, make no adjustment.

Section 5060—Payment of Withheld Taxes
5060.10—Timing of Payments

The basic provision in the Treasury agreements is that each agency will comply with the withholding requirements of the state, city, or county tax laws. Therefore, each agency must observe the payment requirements (biweekly, monthly, or quarterly) of the state, city, or county tax laws currently in effect. 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 based on an SF 1166: Voucher and Schedule of Payments, or other approved voucher form. For more information on the use of the SF 1166, see TFM Volume I, Part 4A, Chapter 3000. Related tax payment documents prescribed by the states, cities, or counties will accompany checks sent to states, cities, counties, or their collection agents. If using an SF 1166, 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, 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

Agencies should deposit the amount of voluntary withholding 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 (Public Law 93-579 codified as 5 U.S.C. § 552(a) - "Records maintained on individuals"). If an agency has not obtained prior
written consent of an employee or has not published a routine use in the Federal Register, an agency will furnish wage and tax information, 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 that 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 the basis for exemption from the tax that are
acceptable under the law. Agencies should ensure compliance by requiring the use of appropriate tax exemption certificates.

5070.30—Notice to Employees

Agency forms, including withholding and exemption certificates, will comply with the Privacy Act of 1974. When using a state, city, or county form, 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

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