

Fiscal Service, Treasury

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city covering the withholding of income or employment taxes from the compensation of Federal employees. The Standard Agreement is essentially the same as the prior agreements. A State or city which currently is a party to an agreement with the Secretary covering the withholding of income or employment taxes from the compensation of Federal employees does not need to apply for a new agreement under this part. A State or city currently a party to an agreement will be presumed to have consented to be bound by the terms of the Standard Agreement (subpart C). If a State or city, which is currently a party, does not want to be bound by the Standard Agreement, it shall notify the Fiscal Assistant Secretary, Department of the Treasury, Washington, DC 20220, in writing over the signature of an officer authorized to bind contractually the State or city within 90 days of the effective date of this part. The procedures of §215.5 shall be followed by a State or city which proposes to be bound by an agreement other than the Standard Agreement.

(b) The effective date for the replacement of existing State or city Standard Agreements by the Standard Agreement appearing as subpart C of this part is the effective date of this part. For current other-than-Standard-Agreements, it is 120 days after the effective date of this part unless an earlier effective date is specifically agreed to or a new agreement which is other than the Standard Agreement of subpart C, is entered into as provided in this subpart.

§215.4 Procedures for entering into a Standard Agreement.

(a) A State, city or county which does not have an existing agreement and wishes to enter into a Standard Agreement shall indicate in a letter its agreement to be bound by the provisions of subpart C. The letter shall be addressed to the Fiscal Assistant Secretary, Department of the Treasury, Washington, DC 20220, and be signed by an officer authorized to bind contractually the State, city or county. Copies of all applicable State laws, city or county ordinances and implementing regulations, instructions, and forms

shall be enclosed. The letter shall also indicate the title and address of the official whom Federal agencies may contact to obtain forms and other information necessary to implement withholding.

(b) Within 120 days of the receipt of the letter from the State, city or county official, the Fiscal Assistant Secretary will, by letter, notify the State, city or county:

(1) That the Standard Agreement has been entered into as of the date of the Fiscal Assistant Secretary's letter, or

(2) That an agreement cannot be entered into with the State, city or county and the reasons for that determination.

The withholding of the State, city or county income or employment tax shall commence within 90 days after the effective date of the agreement.

§215.5 Procedures for an agreement other than a Standard Agreement.

(a) If a State, city or county proposes an agreement which varies from the Standard Agreement, the State, city or county shall follow the procedure in §215.4(a), except that its letter shall indicate which provisions of the Standard Agreement are not acceptable and the basis therefor, and propose substitute provisions.

(b) Within 60 days of the receipt of the letter from the State, city or county official, the Fiscal Assistant Secretary will notify the State, city or county which substitute provisions may be included in the agreement. The State, city or county shall, by letter, notify the Fiscal Assistant Secretary if it accepts such an agreement. When accepted by the State, city or county the effective date of that agreement shall be the date such acceptance letter is received by the Fiscal Assistant Secretary. The withholding of the State, city or county income or employment tax shall commence within 90 days after the effective date of the agreement.

Subpart C—Standard Agreement

§215.6 In general.

This subpart is the text of the Standard Agreement between the Secretary and the State, city or county. The

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terms used in this agreement are defined in §215.2 of this part.

§215.7 Parties.

The parties to this agreement are the Secretary and the State, city or county which has entered into this agreement pursuant to 5 U.S.C. 5516, 5517, or 5520 and Executive Order 11997 (June 22, 1977).

§215.8 Compliance by agencies.

(a) In the case of an agreement with a State, the head of each agency is required to withhold State income taxes from the compensation of:

(1) Employees of such agency who are subject to such taxes and whose regular place of Federal employment is within the State, and

(2) Members of the Armed Forces who are subject to such taxes and who are legal residents of the State.

The foregoing is also applicable with respect to a State whose statutes permit but do not require withholding by employers, provided the employee voluntarily elects to have such tax withheld.

(b) In the case of an agreement with a city or county, the head of each agency is required to withhold city or county income or employment taxes from the compensation of any employee of the agency who is subject to the tax, and

(1) Whose regular place of Federal employment is within the city or county, or

(2) Is a resident of the city or county.

(c) In withholding taxes, the head of each agency, except as otherwise provided in this agreement, shall comply with the withholding provisions of the State, city or county income or employment tax statute, regulations, procedural instructions and reciprocal agreements related thereto.

(Pub. L. 95-365, 92 Stat. 599 (5 U.S.C. 5520))

[42 FR 33731, July 1, 1977, as amended at 44 FR 4670, Jan. 23, 1979]

§215.9 Withholding certificates.

Each agency may require employees or members of the Armed Forces under its jurisdiction to complete a withholding certificate in order to calculate the amount to be withheld. The

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agency shall use the withholding certificate which the State, city or county has prescribed. Where the State, city or county has not prescribed a certificate, the agency may use a certificate approved by the Department of the Treasury. The agency may rely on the information in the certificate. Copies of completed certificates shall be provided to the taxing authority by agencies upon request.

§215.10 Change of legal residence by members of the Armed Forces.

(a) In determining the legal residence of a member of the Armed Forces for tax withholding purposes, the head of an agency at all times may rely on the agency's current records, which may include a certificate of legal residence. The form of the certificate of legal residence shall be approved by the Department of the Treasury. A change of legal residence of a member of the Armed Forces shall become effective for tax withholding purposes only after a member of the Armed Forces completes a certificate indicating a new legal residence and delivers it to the agency.

(b) Heads of agencies shall notify the State of prior legal residence of the member of the Armed Forces involved on a monthly basis concerning the change of the member's legal residence. The notification shall include the name, social security number, current mailing address and the new legal residence of such member of the Armed Forces. The effective date of the change in legal residence shall also be included in the notification.

§215.11 Agency withholding procedures.

(a) State income tax shall be withheld only on the entire compensation of Federal employees and members of the Armed Forces. Nonresident employees, who under the State income tax law are required to allocate at least three-fourths of their compensation to the State, shall be subject to withholding on their entire compensation. Nonresident employees, who under the State income tax law are required to allocate less than three-fourths of their compensation to the State, may elect to: