

RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR APRIL MEETING OF THE
PUEBLO CONSERVANCY DISTRICT ON APRIL 4, 2000

DIRECTORS PRESENT: Sandstrom, Kelly and Farley

ALSO PRESENT : Koester and Banner

The meeting was called to order at 7:30 a.m. on the above date, and the minutes of the March meeting were approved as prepared.

The Treasurers report for March was approved as prepared. The following bills for April were approved for payment:

1825	G. Sandstrom	Directors Fee	55.41
1826	K. Farley	Directors Fee	55.41
1827	P. Kelly	Directors Fee	55.41
1828	Banner	Legal Fee	300.00
1829	Engineer Koester	Eng/Admin Fee	480.00
		Rental Fees	100.00
1830	MBKD, pc	Bookkeeping Service	175.00
1831	Westplains Energy	Power at Runyon	90.00
1832	NorthStar Eng.	Eng Service/X-Road	808.00
1833	Jay Furney Const.	Constr. Est. #2	22,725.88
1834	United States Treasury	1st Qtr FICA	82.62
1835	Spaccamonti Exc.	Emerg Levee Rep	27,113.15

The Board then heard a report that this Districts HARP apportionment for year 2000 is still at \$50,000, while HARP's accounting indicates PCD owing \$13,000 (the difference between the \$50,000 for 2000, and the \$36,800 paid on January 1, 2000 for 1999). It was also noted that the Application for Exemption from Audit for year 1999 as prepared by Larry Daveline and staff at MBLD, was approved and accepted by the Office of the State Auditor (copy of letter attached).

There was nothing new to report on the Boat Concessionaire selection for HARP.

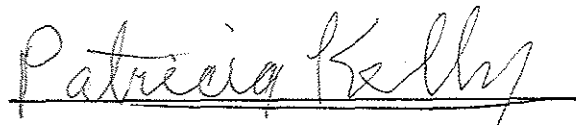
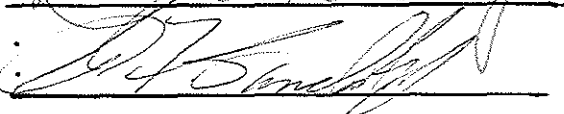
The Board then reviewed the progress of the Railroad property trade and the Water Works transfer, to learn that the Board of Works was given a legal description of property to be traded, but have not responded with a form of agreement to trade, and so the deed from this District to the Water Works is being held. The Union Pacific Railroad has indicated they are proceeding with the trade this District has proposed, and legal descriptions are in the mail in preparation for exchange of deeds.

Engineer Koester reported on the Levee repairs that have taken place near the Power Company dam, and all work is complete, and the maintenance contractor for the District, Spaccamonti Excavating has submitted a time and materials invoice for that work, copy attached. The Board then unanimously approved payment from Emergency Funds, for the work, upon receipt of a Lein Waiver from Spaccamonti regarding purchase of materials and services outside their firm for this project.

A report was given by Sandstrom that there is still concern in the community regarding the presence of the Confederate flag painting on the levee, and it was his suggestion that with the Boards permission, he would speak with Cynthia Ramu, spokesperson for the painting projects on the levee, and those asking for the flag paintings removal, and arrange for a "paint out" or "paint over" of the Confederate Flag near Main Street bridge.

There being no further business, the meeting was adjourned at 8:00 a.m. with the regular May meeting scheduled for Tuesday May 2, 2000 at 8:00 a.m. following the Fishing is Fun meeting to be held at Cornell's Country Cafe, 716 North Santa Fe.

APPROVED;

THE PUEBLO CONSERVANCY DISTRICT

BOARD OF DIRECTORS
P. KELLY
K. FARLEY
G. SANDSTROM

111 EAST FIFTH STREET
544-6823
PUEBLO, COLORADO

MAILING ADDRESS:
P. O. BOX 234
PUEBLO, COLO. 81002

NOTICE OF MAY MEETING

DATE : May 2, 2000 (Tuesday)
TIME : 8:00 a.m.
PLACE : At Cornell's Country Cafe (716 N. Santa Fe)
following Fishing is Fun (starting at 7:00 a.m.)

A G E N D A

1. Roll Call
2. Approval of Minutes of April meeting.
3. Treasurers Report for April 2000
 - a. Approve Payment to Contractor on Cross-over Road, following advertisement.
 - b. Approve bills for May
4. Old Business -
 - a. Report on Union Pacific lease or trade of property, and Board of Water Works trade agreement.
 - b. Hear report on contacts regarding Confederate Flag painting on levee.
5. New Business -
 - a. Peace Garden request by Ghandi Group
 - b. Review Master plan of Runyon Area Planning Group
6. Set dates for May walk and June meeting.
7. Adjourn.

BILL OWENS
Governor

VICKIE L. ARMSTRONG
Executive Director

JEFFREY M. WELLS
Deputy Executive Director

MELVIN MADDEN
Associate Director for
Finance



DEPARTMENT OF LABOR AND EMPLOYMENT

OFFICE OF FINANCE
PUBLIC EMPLOYEES SOCIAL SECURITY PROGRAM
Two Park Central, Suite 400
1515 Arapahoe Street
Denver, Colorado 80202-2117

(303) 620-4458
Fax: (303) 620-4485

INFORMATIONAL RELEASE

TO: All Colorado Section 218 Government Employers

FROM: Rebecca Greben, Public Employees' Social Security Program

DATE: March, 2000

SUBJECT: FICA withholding for persons hired temporarily as election workers*

As you may be aware, a 1951 revision to the Social Security Act made it possible for state and local governments to voluntarily elect to bring their employees under Social Security coverage and, subsequently, Medicare as well ("full FICA"). This election can be accomplished via a "Section 218 Agreement." This office is both the central repository for the Section 218 Agreements and the liaison between state/local government employers and the federal government on many FICA issues for the State of Colorado. Our records indicate that this public entity is subject to a Section 218 Agreement.

The purpose of this announcement is to inform you that, retroactive to January 1999, the State of Colorado has implemented a state-wide Modification to its "Master" Section 218 Agreement with the federal government which formalizes the practice of *excluding* election workers and election judges from FICA withholding on annual wages earned, up to \$1,000.00. An informal survey performed by this office early in 1999 revealed that most government entities having 218 agreements were not withholding FICA taxes on those employees. Because of varying interpretations of the existing exclusions taken under the individual 218 agreements, and changes in the Social Security Act section addressing election workers since 1967, the Social Security Administration recently contacted this office and strongly urged the State to clarify its intent with respect to the FICA tax treatment of election workers. Since, historically, the State has excluded those workers from Section 218 coverage as a form of temporary or fee-based position, this office in December executed a document which confirms and formalizes this practice for all Section 218 entities. It was approved by the Social Security Administration on February 14, 2000.

* This Memo is *not* relevant to employers not authorized to hold elections, nor to political subdivisions that are *not* covered by a Section 218 Agreement.

Continued on reverse side

Therefore, beginning in the calendar year 1999, **no** FICA taxes should be withheld or reported on wages paid to temporary election workers unless the amount per individual exceeds \$1,000. **If you have not been withholding, no action is required.** You are not required to report wages of less than \$600/year. However, a W-2 Form is required if the wages are between \$600 and \$999 (though no FICA *withholding* is required). *If the wages for an individual equal or exceed \$1,000 (which in most cases is unlikely), they must be reported on a W-2 and FICA must be withheld on the full amount, not just the amount over and above \$1,000.* Please note that the "dollar threshold" may change per Social Security regulation. The threshold amount for the year 2000 was recently adjusted to \$1,100. [See the attached IRS Revenue Ruling 2000-6 for further information on withholding and reporting requirements.]

If you withheld FICA from your temporary election workers (paid under \$1,000) during 1999, you may seek a correction by filing a W-2C and 941-C; by doing so you may apply the payment to future tax liability. The individual worker may file a form 1040X, with a copy of the corrected W-2. Alternatively, you may file a claim Form 843 for a refund of the full amount of FICA withheld on those workers, but you as the employer must obtain certifications from each employee that they will not file claims for FICA tax refunds on their individual tax returns. With regard to employees that decline to submit a certification, the employer is limited to filing a claim for a refund only for the employer's portion of the withholding. You will have about 3 years to seek such a refund, after which time the statute of limitations will have passed. Because the Modification which is the subject of this memo is effective commencing January 1999, FICA withholdings (or not) for the years prior to 1999 are not affected. Questions about this process should be referred to your internal tax auditor or accountant, or you may contact Mike West, IRS, at (303) 784-6001 x252.

Should you have questions, please feel free to contact me at (303) 620-4458. I can also be reached by fax at (303) 620-4485 or by e-mail at becky.greben@state.co.us. Also please note that this office has an informational website that can be found at <http://pess.cdle.state.co.us>. Announcements on matters such as this, and other information about state and local government FICA and public retirement systems may be reviewed.

Please note that many questions are more appropriately directed to the Internal Revenue Service or the Social Security Administration. The IRS can be reached at 1-800-829-1040; the number for the Social Security Administration is 1-800-772-1213. However, if you are uncertain or have difficulty obtaining an answer from other agencies, we will be happy to assist you to the extent that we are able. Please be advised, however, that information provided by this office should not be regarded as legal advice. You are urged to consult an attorney, your accountant/auditor or other expert for instruction on specific legal, financial or tax matters, as appropriate.

Section 3121.—Definitions

At what level of compensations does FICA tax apply to election workers? See Rev. Rul. 2000-6 on this page.

Section 3401.—Receipts for Employees

26 CFR 31.3401

Does federal income tax withholding apply to compensation paid to election workers? See Rev. Rul. 2000-6 on this page.

Section 6041.—Information at Source

(Also §§ 3121, 3401, 6051)

26 CFR 1.6041-2: Return of information as to payments to employees.
(Also § 1.6041-1)

Information reporting requirements applicable to election workers. The requirements for information reporting applicable to election workers whose compensation is not subject to FICA tax are found in Code section 6041(a). As a result, reporting is generally not required for election workers earning less than \$600 annually. Rev. Rul. 88-36, 1988-1 C.B. 343, modified.

Rev. Rul. 2000-6

ISSUE

How do the information reporting requirements of §§ 6041(a) and 6051(a) of the Internal Revenue Code apply to election workers?

FACTS

Election workers are individuals who are generally employed to perform services for state and local governments (governments) at election booths in connection with national, state, or local elections. Governments typically pay election workers a set fee for each day of work. Election workers' wages are includible in gross income as compensation for services. Section 61(a)(1). An individual employed as an election worker may also perform services for the government in another capacity.

A state and the Social Security Admin-

istration may agree to extend social security coverage to services of employees of the state or its political subdivisions under § 218 of the Social Security Act (§ 218 agreement). A § 218 agreement may cover the services of election workers. If so, the § 218 agreement may specify the level of fees the election workers must receive to be entitled to coverage. Information about a state's § 218 agreement can be obtained from the State Social Security Administrator.

Situation 1: Government A pays V \$200 in a calendar year for services as an election worker. A does not employ V in any other capacity. The services of A's election workers are not covered by a § 218 agreement. V is not covered by a retirement plan maintained by A.

Situation 2: Government B pays W \$200 in a calendar year for services as an election worker. B does not employ W in any other capacity. The services of B's election workers are covered by a § 218 agreement if their remuneration is \$100 or more in a calendar year. W is not covered by a retirement plan maintained by B.

Situation 3: Government C pays X \$1,100 in calendar year 2000 for services as an election worker. C does not employ X in any other capacity. The services of C's election workers are not covered by a § 218 agreement. X is not covered by a retirement plan maintained by C.

Situation 4: Government D pays Y \$200 in a calendar year for services as an election worker. D also employed Y in another capacity, in which Y earned wages of \$300 that are subject to income tax withholding. The services of D's election workers are not covered by a § 218 agreement. Y is not covered by a retirement plan maintained by D.

Situation 5: Government E pays Z \$200 in a calendar year for services as an election worker. E also employed Z in another capacity, in which Z earned wages of \$500 that are subject to income tax withholding. The services of E's election workers are not covered by a § 218 agreement. Z is not covered by a retirement plan maintained by E.

LAW

Taxes under the Federal Insurance Contribution Act (FICA) apply to "wages" as defined in § 3121(a). That section provides that the term wages in-

cludes only remuneration for "employment." Section 3121(b)(7)(F)(iv) provides that the services of an election worker are not employment for FICA purposes if the worker's remuneration is less than \$1,000. For calendar years beginning on or after January 1, 2000, the amount is indexed for inflation. The applicable amount for the year 2000 is \$1,100. Because service performed by an election worker for calendar year 2000 for an amount less than \$1,100 is excluded from employment for FICA purposes, that amount is not wages for FICA purposes unless covered under a § 218 agreement.

Similarly, section 3121(u)(2)(B)(ii)(V) provides that the services of an election worker are not employment for purposes of the Medicare tax portion of the FICA if the worker's remuneration is less than \$1,000 in a calendar year. For calendar years beginning on or after January 1, 2000, the amount is indexed for inflation. The applicable amount for the year 2000 is \$1,100. For services performed before January 1, 1995, the § 3121(u)(2)(B)(ii)(V) exclusion was for remuneration of less than \$100. Rev. Rul. 88-36, 1988-1 C.B. 343, A2, provides that an election worker is subject to Medicare tax unless the remuneration paid to the worker in a calendar year is less than \$100.

Section 3401(a) provides that, for purposes of income tax withholding, the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for an employer. Section 31.3401(a)-2(b)(2) of the Employment Tax Regulations states that amounts paid to precinct workers for services performed at election booths are "in the nature of fees paid to public officials" and not subject to income tax withholding.

Sections 6041(a) and 6051(a) both impose a duty to file information reports of compensation paid to workers.

Section 6041(a) provides:

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income ... of \$600 or more in any taxable year ... shall render a true and accurate return to the Secretary, under such regulations and in such form and manner

and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

Under § 1.6041-1(b)(1) of the Income Tax Regulations, the term "all persons engaged in a trade or business," as used in § 6041(a), includes organizations the activities of which are not for the purpose of gain or profit.

The general rule stated in § 1.6041-1(a)(2) is that the required return is made on Forms 1096 and 1099, except that § 1.6041-1(a)(2)(ii) provides that compensation paid to an employee by an employer shall be reported on Forms W-3 and W-2 under the provisions of § 1.6041-2 (relating to return of information as to payments to employees).

Under § 1.6041-2(a)(1), payments of wages not subject to income tax withholding must be reported on Form W-2 if the total of those payments and the amount of the employee's wages subject to income tax withholding, if any, is \$600 or more in a calendar year. For example, if a payment of \$700 was made to an employee and \$400 thereof represents wages subject to withholding under section 3402 and the remaining \$300 represents compensation not subject to withholding, such wages and compensation must both be reported on Form W-2. If the employee has no wages subject to income tax withholding, the employer is required to file Form W-2 for that employee if payments to that employee equal \$600 or more in a calendar year.

Section 1.6041-2(a)(1) provides that, at the election of the employer, components of amounts required to be reported on Form W-2 pursuant to this subparagraph may be reported on more than one Form W-2. Thus the amounts paid to an individual for services as an election worker may be reported on a separate W-2 from amounts paid to the individual for service in another capacity, even though the amounts are aggregated to determine whether reporting applies.

Section 6051(a) imposes a reporting requirement on the following two categories of payors of remuneration:

Every person required to deduct and withhold from an employee a tax under section 3101 [employee FICA tax] or 3402 [income tax withholding], ... or every employer engaged in a trade or

business who pays remuneration for services performed by an employee ...

Section 6051(a) does not require reporting of compensation that is not subject to withholding of FICA tax or income tax.

Section 6051(c) provides that the Secretary may prescribe by regulations the reporting of additional items. No regulations requiring employers to furnish additional information have been published.

ANALYSIS

Compensation of an election worker is not subject to income tax withholding. Sections 3401(a) and 31.3401(a)-2(b)(2). If an election worker's compensation is less than \$1,100 for calendar year 2000, it is generally not subject to FICA tax. Sections 3121(b)(7)(F)(iv) and 3121(u)(2)(B)(ii)(V). However, under a state's § 218 agreement, an election worker's compensation may be subject to both the old-age, survivors and disability insurance (OASDI) and the Medicare portions of the FICA tax at a level below \$1,100 for calendar year 2000.

Section 6041(a) applies to payments of compensation that are not subject to withholding of FICA or income tax. If an election worker's compensation is not subject to withholding of FICA tax, the § 6041(a) reporting requirement applies to payments that aggregate \$600 or more in any taxable year. Under § 1.6041-2(a)(1), compensation subject to income tax withholding is taken into account in determining whether the \$600 reporting requirement applies.

Section 6051(a) requires reporting of compensation subject to either FICA tax or income tax withholding. No reporting is required by §§ 6051(a) and 31.6051-1(a) and (b) for items of income that are not subject to withholding of FICA tax or income tax. If an election worker's compensation is subject to withholding of FICA tax, reporting is required by § 6051(a), regardless of the amount of compensation.

HOLDINGS

The reporting requirements applicable to governments that employ election workers are as follows:

Situation 1: Neither FICA tax nor income tax withholding applies to the \$200 paid to V. The reporting requirements of § 6041(a) apply. Because V earns fees

that are less than \$600, Government A is not required to issue Form W-2 to V.

Situation 2: FICA tax, but not income tax withholding, applies to the \$200 paid to W because the fees exceed the \$100 threshold in the § 218 agreement. Government B must follow the reporting requirements of § 6051(a), reporting on Form W-2 the fees of \$200 and the FICA tax withheld.

Situation 3: FICA tax, but not income tax withholding, applies to the \$1,100 paid to X for calendar year 2000. Government C must follow the reporting requirements of § 6051(a), reporting on Form W-2 the fees of \$1,100 and the FICA tax withheld.

Situation 4: Neither FICA tax nor income tax withholding applies to the \$200 paid to Y for services as an election worker, but the \$300 payment is subject to income tax withholding. Government D must follow the reporting requirements of § 6051(a), reporting on Form W-2 the \$300 payment and the income tax withheld. Section 6041(a) does not require reporting of the \$200 payment because the total of the two payments is less than \$600 for the calendar year.

Situation 5: Neither FICA tax nor income tax withholding applies to the \$200 paid to Z for services as an election worker, but the \$500 payment is subject to income tax withholding. Government E must follow the reporting requirements of §§ 6041(a) and 6051(a), reporting on Form W-2 both the \$200 and the \$500 payments and the amount of income tax withheld.

EFFECT ON OTHER REVENUE RULING(S)

This ruling modifies Rev. Rul. 88-36, A2, to reflect the increase in the amount of remuneration applicable for purposes of the Medicare tax exclusion under § 3121(u)(2)(B)(ii)(V), currently \$1,100 for calendar year 2000.

DRAFTING INFORMATION

The principal author of this revenue ruling is Elizabeth Edwards of the Office of Chief Counsel (Employee Benefits & Exempt Organizations). For further information regarding this revenue ruling, contact Elizabeth Edwards at (202) 622-6040 (not a toll-free call).



STATE OF COLORADO

OFFICE OF THE STATE AUDITOR
(303) 866-2051
FAX (303) 866-2060

Mini
J. DAVID BARBA, CPA
State Auditor

Legislative Services Building
200 East 14th Avenue
Denver, Colorado 80203-2211

March 17, 2000

Board of Directors
Pueblo Conservancy District
c/o Raymond Koester, District Engineer
P. O. Box 234
Pueblo, Colorado 81002

RE: #2638

Dear Board Members:

We have reviewed the Application for Exemption from Audit of the Pueblo Conservancy District. The application for the year ended December 31, 1999 is approved.

If we may be of any assistance to you, please feel free to call us.

Very truly yours,

Linda Greenly, CPA
Director of Local Government Audits

LG:y

cc: Division of Local Government

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THE PUEBLO CONSERVANCY DISTRICT<

ACCOUNTS PAYABLE - - -

April Accounts Payable to Approve 04-04-00

1825	G. Sandstrom	Directors Fee (Apr) (81)	\$ 55.41
1826	K. Farley	Directors Fee (Apr) (81)	55.41
1827	P. Kelly	Directors Fee (Apr) (81)	55.41
1828	Banner	Legal Fee (Apr) (80)	300.00
1829	Engineer Koester	Eng/Admin (Mar) (83)	400.00
		Extra Engineering (109)	80.00
		re: Levee Repair	
		Rental of Stor and Mtg (97)	100.00
1830	MBKD, PC	Bookeepg Service (Mar) (90)	175.00
1831	Westplains Energy	Power at Runyon (105)	90.00
1832	NorthStar Eng.	Eng. Fees/Road work (110)	
		(Mar)	808.00
1833	Jay Furney Const.	Completion of X-Over Road	
		and Trails portion.	22,725.88
		(less 5% of total contract)	
1834	United States Treasury	1st Qtr. FICA (941)	82.62
1835	Spaccamonti Excavating--Emergency Levee Repairs		
		(109) completed March 10, 2000	27,113.15
	Emergency (109)	\$27,193.15	
	Advance for Fed	22,725.88	
	Misc. Budget items	2,121.85	
	TOTAL	\$ 52,040.88	