

# STATE CONTROLLER TECHNICAL GUIDANCE

## MEDICARE QUALIFIED GOVERNMENT EMPLOYEES

### 1) AUTHORITY.

U.S. Code, Title 26, §3101 Rate of Tax (Internal Revenue Code)  
IRS Publication 963 Federal-State Reference Guide

**2) PURPOSE OF THIS TECHNICAL GUIDANCE.** The Office of the State Controller is providing this technical guidance to inform State Agencies and Institutions of Higher Education of tax issues related to Medicare Qualified Government Employees.

### 3) DEFINITIONS.

- a. Continuous Employment** – Employee works for the same employer without a break in service. The act of retiring is considered a break in service.
- b. Internal Revenue Code** – U.S. Code, Title 26, §§, et seq.
- c. IRS Publications** – Publications issued by the Internal Revenue Service, including without limitation the Internal Revenue Service cumulative bulletins.
- d. IRS Regulations** – The rules and regulations of the Internal Revenue Service/Department of the Treasury promulgated under the Internal Revenue Code.
- e. Medicare Qualified Government Employee** – State and local governmental employees hire or rehired after March 31, 1986, are subject to mandatory Medicare coverage.
- f. Non-Medicare Qualified Government Employee** – Public employees who have been in continuous employment with their employer since March 31, 1986, who are not covered under a Section 218 Agreement nor subject to the mandatory Social Security and Medicare provisions, remain exempt from both Social Security and Medicare taxes, provided the employees are members of a public retirement system.
- g. Section 218 Agreement** – A Section 218 Agreement is a written voluntary agreement between one of the 50 states or an interstate instrumentality and the Social Security Administration pursuant to the provision of Section 218 of the Social Security Act. This agreement provides social security and Medicare, or Medicare-only, coverage for designated groups of state and local government employees. Under some circumstances, an employee may be excluded from social security or Medicare, or both.

### 4) MEDICARE TAX.

- a. Medicare Qualified Government Employee** – not subject to Medicare tax.
- b. Non-Medicare Qualified Government Employee** – Subject to Medicare tax.
- c. Amount** – 1.45% employer's share and 1.45% employee's share.

### 5) RETIREES

- a. Retiree returns to work hired prior to April 1, 1986** – An employee who was hired prior to April 1, 1986 with continuous employment. The State agency did not withhold Medicare tax. The employee retires and returns to work. Because there is a break in service, the State agency is required to withhold Medicare tax.
- b. Retiree returns to work hired on or after April 1, 1986** – An employee who was hired on or after to April 1, 1986. The agency withheld Medicare tax. If the employee retires and returns to work, the State agency will withhold Medicare tax.

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