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Secretary

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Deputy Secretary

April 28, 2023

Ms. Nikki Charlson
Deputy Administrator
State Board of Elections
Administrator's Office
151 West Street, Suite 200
P.O. Box 6486
Annapolis, MD 21401-0486

Dear Ms. Charlson:

In my role as the State Social Security Administrator, I receive requests each year from local boards of elections seeking information pertaining to exceptions from FICA taxes¹ for election workers in Maryland. This exception is based upon the State's Section 218 Agreement with the federal government.² FICA taxes are paid by both the employee and the employer; however, it is the employer's responsibility to withhold the FICA contributions. Having looked into the matter, this issue is likely to be of statewide concern to all the local boards of elections; hence the reason for this letter.

As in past election years, each of the Local Boards of Elections hires Election Judges to work the polls. This year, it is more likely that you will employ Election Judges for the purpose of counting mail-in ballots, as well as, to work the polls or drop off locations. As mentioned above, there is an exemption from FICA taxes that applies to these election workers up to a monetary limit that is set by the federal government for the relevant reporting year. This year's level is, as it was for 2022, \$2,000 (https://www.ssa.gov/slge/election_workers.htm). There is also a requirement to generate a W-2 form for any election worker that receives pay of more than \$600 in the relevant reporting year. Maryland's Section 218 Agreement provides that the State will comply with these federally established thresholds. Should an election judge receive pay exceeding these limits, both the election judge and the employer will be responsible to pay FICA taxes, starting with the first dollar earned by the individual. The payment made to the employee as an election judge is separate from any other earnings the employee may receive from the government. Therefore, earnings not subject to withholding, such as those resulting from work as an election judge should not be recorded as earnings on the employee's regular W-2, or a separate W-2 must be issued for the work performed as an election judge. For more

¹ FICA taxes consist of both Social Security taxes and Medicare taxes. Collection of these two types of taxes was combined under the Federal Insurance Contribution Act (FICA).

² The Section 218 Agreement governs the FICA taxes applicable to certain State and local government employees.

information, you may wish to review the Internal Revenue Service Revenue Ruling 2000-6, available at <http://www.irs.gov/pub/irs-irbs/irb00-06.pdf>.

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While I am not a tax expert, it is my understanding that the 2022 effective tax rate for Social Security and Medicare combined is 15.30 percent, with the employee, in this case the election judge, paying 7.65 percent (6.2 percent for Social Security and 1.45 percent for Medicare), and the employer paying 7.65 percent (6.2 percent for Social Security and 1.45 percent for Medicare). The employee share must be withheld from pay made to the employee. The employer remits the employee and employer shares as part of its quarterly employment tax obligations. This will be an additional expense for the local boards and will reduce the net pay for the election judge, should they earn more than allowed under the exemption.

Due to the continued adjustment of the number of days, hours, or locations that the polls will be open this year, and the potential of a significant need for election judges to process mail-in Ballots and the additional staffing required to provide coverage for those activities, it will be important to be mindful of the limits on earnings. Please distribute this letter to all the local elections boards to inform them of the requirements detailed above in order to avoid any unintended consequences which may increase the cost to the counties of running this year's election. Each Board may wish to consult with their respective payroll centers to discuss the withholding and remittance obligations.

Please contact me at 410-767-4773, if you have any questions. Thank you.

Sincerely,

T. J. Reardon

Thomas J. Reardon
State Social Security Administrator
Office of Personnel Services and Benefits