

● SOCIAL SECURITY ACT; FEDERAL INSURANCE CONTRIBUTIONS ACT

STATUTORY CITATION: 42 USC §§ 401 – 434; 26 USC §§ 3101 – 3128

GENERAL SUMMARY: Among many other statutory purposes, the Social Security Act authorizes monthly cash payments to insured workers for long-term disability and retirement, as well as cash benefits for their survivors. Social Security benefits are financed through a tax on wages, authorized by the Federal Insurance Contributions Act and paid by employers, employees and the self-employed.

With a multitude of narrow exceptions, employers and employees are required to pay FICA taxes on all cash and non-cash wages paid to an employee, up to a current wage limit of \$127,200 per year (2017).

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to pay FICA taxes on behalf of their agricultural employees. On the other hand, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, must pay FICA taxes on that worker's wages. The employer's share of the tax is currently 7.65 percent of each covered worker's wages, up to a taxable wage limit of \$127,200 per worker per year.

Exception — The \$2,500 wage threshold referred to above *does not include* wages paid to workers who (1) are employed as hand harvest laborers paid on a piecework basis in a generally recognized piecework operation in the region of employment, (2) commute to the employer's farm daily from their permanent residence, and (3) were employed in agriculture less than 13 weeks during the previous calendar year.

WORKER CONTRIBUTIONS — Workers who perform agricultural services for an employer whose annual expenditures for agricultural labor amount to at least \$2,500, or who receive \$150 or more in agricultural wages from the employer, are required to pay FICA taxes equal to the employer's share, or 7.65 percent of their wages. The employer must deduct the worker's share of FICA taxes from the worker's earnings each time wages are paid, and must regularly deposit the FICA taxes in a federal depository bank or forward them to the Internal Revenue Service. By early the following year, the employer must report the amount of wages paid and FICA taxes withheld to the Social Security Administration, for proper credit to the worker's earnings record. Compensation paid to the worker in any form other than cash (such as housing or transportation, for example) is not considered wages for Social Security purposes.

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BENEFITS — A worker's eligibility for Social Security benefits, as well as the amount of those benefits, depends on the number of quarters of coverage the worker has accumulated as an employee. Workers may accrue up to four quarters of coverage in a year, provided their wages from FICA-covered employment equal or exceed the minimum required earnings in every quarterly period; in 2017, a worker must have at least \$1,300 in covered earnings to receive credit for a quarter of coverage. Farmworkers who have sufficient quarters of coverage and meet other eligibility requirements may qualify for full or reduced Social Security benefits, as determined through regular application processing procedures.

In general, disability benefits are payable only in the case of a disability that is expected to last at least 12 months or can be expected to result in death, and only when the worker meets the required period of covered employment. Retirement benefits are generally payable beginning at age 62, provided the worker has at least 40 quarters of coverage, or one quarter of coverage for each calendar year after age 21 and before age 62.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — In cases where work is performed through the auspices or under the supervision of a crew leader or labor contractor, the question of who, if anyone, is responsible for collecting and matching FICA contributions on the worker's wages depends on the relationship between the crew leader or contractor and the farm operator. Unless the crew leader has entered into a written agreement with the farmer, under which the crew leader is designated as the farmer's employee, as long as the workers receive their pay from the crew leader, the workers are deemed to be employees of the crew leader. In such cases, the crew leader is responsible for withholding and paying the FICA contributions, if applicable.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Internal Revenue Service, U.S. Department of the Treasury, Washington, D.C. 20224 (202-283-1710)*. Through its district offices, IRS is responsible for enforcing employer compliance with the Federal Insurance Contributions Act, which includes both the determination of the employer's liability for payment of FICA taxes and collection of the taxes themselves. In response to a complaint or on the agency's own initiative, personnel from the IRS district office may inspect and copy an employer's payroll records, question employers and employees, and take related action to determine the employer's tax liability. Similarly, the district office may investigate apparent or alleged failure of an employer to deposit or forward FICA taxes withheld from a worker's earnings, and may enforce civil penalties and bring criminal charges against an employer for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *Social Security Administration, U.S. Department of Health*

U.S. / Insurance & Compensation / Disability Insurance

and Human Services, Baltimore, Maryland 21235 (410-965-0100). The Social Security Administration is responsible for properly crediting to the worker's earnings record the wages reported by the employer on Form W-2, a copy of which must be filed with the agency, and a duplicate forwarded to the worker, by January 31 following the end of the calendar year being reported. This agency also has charge of processing applications and determining eligibility for Social Security benefits. Accordingly, local Social Security offices can provide assistance to workers who wish to apply for benefits or have a question concerning their earnings record or any other aspect of Social Security. Offices can be located by phone, at 800-772-1213 (toll-free), or online at <https://secure.ssa.gov/ICON/main.jsp#officeResults>.