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of State, city or county income or employment taxes. Subpart C is the Withholding Agreement which the Secretary will enter into with any State, city or county which qualifies to have the tax withheld.

[71 FR 2150, Jan. 13, 2006]

§ 215.2 Definitions.

As used in this part:

(a) *Agency* means each of the executive agencies and military departments (as defined in 5 U.S.C. 105 and 102, respectively) and the United States Postal Service; and in addition, for city or county withholding purposes only, all elements of the judicial branch.

(b) *City* means any unit of general local government.

(1) Which:

(A) Is classified as a municipality by the United States Bureau of the Census, or

(B) Is a town or township which, in the determination of the Secretary of the Treasury,

(i) Possesses powers and performs functions comparable to those associated with municipalities,

(ii) Is closely settled, and

(iii) Contains within its boundaries no incorporated places as defined by the United States Bureau of the Census; and

(2) Within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government.

(c) *City income or employment taxes* means any form of tax for which, under a city ordinance:

(1) Collection is provided by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to a designated city officer, department, or instrumentality; and

(2) The duty to withhold generally is imposed on the payment of compensation earned within the jurisdiction of the city in the case of employees whose regular place of employment is within such jurisdiction. Whether the tax is described as an income, wage, payroll, earnings, occupational license, or otherwise, is immaterial.

(d) *Compensation* as applied to employees of an agency and members of the Armed Forces means *wages* as defined in 26 U.S.C. 3401(a) and regulations issued thereunder.

(e) *County* means any unit of local general Government which is classified as a county by the Bureau of the Census and within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government.

(f) *County income or employment taxes* means any form of tax for which, under a county ordinance:

(1) Collection is provided by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to a designated county officer, department, or instrumentality; and

(2) The duty to withhold generally is imposed on the payment of compensation earned within the jurisdiction of the country in the case of employees whose regular place of employment is within such jurisdiction. Whether the tax is described as an income, wage, payroll, earnings, occupational license, or otherwise, is immaterial.

(g) *District of Columbia income tax* means the income tax imposed under 47 District of Columbia Code, chapter 15, subchapter II.

(h)(1) *Employees* for the purpose of State income tax withholding, means all employees of an agency, other than members of the armed forces. For city and county income or employment tax withholding, it means:

(i) Employees of an agency;

(ii) Members of the National Guard, participating in exercises or performing duty under 32 U.S.C. 502; or

(iii) Members of the Ready Reserve, participating in scheduled drills or training periods, or serving on active duty for training under 10 U.S.C. 270(a).

The term does not include retired personnel, pensioners, annuitants, or similar beneficiaries of the Federal Government, who are not performing active civilian service or persons receiving remuneration for services on a contract-fee basis.

(2) *Employees* for purposes of District of Columbia income tax withholding, means employees as defined in 47 District of Columbia Code 1551c(z).

(i) *Members of the Armed Forces* means (1) individuals in active duty status (as defined in 10 U.S.C. 101(d)(1)) in regular

and reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard, and (2) members of the National Guard while participating in exercises or performing duty under 32 U.S.C. 502 and members of the Ready Reserve while participating in scheduled drills or training periods or serving on active duty for training under 10 U.S.C. 10147.

(j) *Ordinance* means an ordinance, order, resolution, or similar instrument which is duly adopted and approved by a city or county in accordance with the constitution and statutes of the state in which it is located and which has the force of law within such city or county.

(k) *Regular place of Federal employment* means the official duty station, or other place, where an employee actually and normally (*i.e.* , other than in a travel or temporary duty status) performs services, irrespective of residence.

(l) *Secretary* means Secretary of the Treasury or his designee.

(m) *State* means a State, territory, possession, or commonwealth of the United States, or the District of Columbia.

(n) *State income tax* means any form of tax for which, under a State status:

(1) Collection is provided, either by imposing on employers generally the duty of withholding sums from the compensation of employees and making returns of such sums to the State or by granting to employers generally the authority to withhold sums from the compensation of employees, if any employee voluntarily elects to have such sums withheld; and

(2) The duty to withhold generally is imposed, or the authority to withhold generally is granted, with respect to the compensation of employees who are residents of such State.

[42 FR 33731, July 1, 1977, as amended at 55 FR 3590, Feb. 2, 1990; 55 FR 7494, Mar. 2, 1990; 71 FR 2150, Jan. 13, 2006]

Subpart B—Procedures

§ 215.3 Procedures for entering into a Withholding Agreement.

(a) Subpart C of this part is the Withholding Agreement which the Secretary will enter into with a State, city or county. A State, city or county which does not have an existing withholding agreement with the Secretary and wishes to enter into such an agreement shall indicate in a letter its consent to be bound by the provisions of subpart C. The letter shall be sent to the Secretary by addressing the request to: Assistant Commissioner, Payment Management, Bureau of the Fiscal Service, Department of the Treasury, 401 14th Street, SW., Washington, DC 20227. The letter shall 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 Secretary will, by letter, notify the State, city or county:

(1) That a Withholding Agreement has been entered into as of the date of the Secretary's letter, or

(2) That a Withholding Agreement cannot be entered into with the State, city or county and the reason for that determination.

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

[71 FR 2150, Jan. 13, 2006, as amended at 75 FR 51374, Aug. 20, 2010]

§ 215.4 Relationship of Withholding Agreement to prior agreements.

Jurisdictions which requested from Treasury an agreement other than the Withholding Agreement set forth in subpart C (formerly known as the Standard Agreement) within 90 days after July 1, 1977, which request Treasury subsequently approved, will continue to be governed by such agreement. For all other jurisdictions, the Withholding Agreement set forth in subpart C replaced all prior agreements between the Secretary and a taxing jurisdiction for the withholding of income or employment taxes from the compensation of Federal employees,