

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Personnel Department
(Agency or Board)

Regulation No. Personnel 198

Subject: Social Security - State + Local Governments

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

JAN 6 1975 11 am

BY Eda Staudenmaier
AUTH. SIGNATURE EJ

Stamped and filed with the Secretary of State 1-6-75

Rev. 9-72

ADMIN. 1000

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : J. Michael Miles
Special Assistant Attorney General

DATE: December 16, 1974

FROM : Michael B. Miller
Special Assistant Attorney General

SUBJECT: Social Security Rules

Attached herewith for review are the Social Security rules promulgated by the Department of Personnel.

Also attached are three copies of each of the following documents.

1. Order for Hearing
2. Notice of Hearing
3. Rules as Proposed
4. Affidavit of Acquisition of Secretary of State's List
5. Secretary of State's Certificate
6. Affidavit of Mailing
7. Statement of Need
8. Findings of Fact
9. Order Adopting Rules
10. Statement of Compliance

Also enclosed are the transcript of public hearing and documents received as part of the record.

MBM/sr

Enclosures

STATE OF MINNESOTA

SOCIAL SECURITY -- STATE & LOCAL GOVERNMENTS

Rules and Regulations

Pursuant to M.S. 355

Chapter 18

Personnel 198

(a) Authorization. Pursuant to M.S. 355, the following rules and regulations are promulgated to be applicable to the state, any political subdivision thereof, or coverage group to be included under the Federal Old Age and Survivors Insurance System.

(b) Definition of terms. The terms defined in this section shall have the meaning ascribed to them herein.

(1) The terms "State Agency", "wages", "employment", "employee", "Social Security Act", "political subdivision", and "Federal Insurance Contributions Act", mean as defined in M.S. 355.

(2) The term "Coverage Group" means the grouping of positions in any political subdivision or political subdivisions of the state as they are brought under the provisions of the Federal Social Security Act, pursuant to M.S. 355, and for which contributions for each grouping are required by law to be transmitted to the State Agency.

(c) Employee Account Numbers. At the time a political subdivision makes its first quarterly report for Federal Old Age and Survivors Insurance, it shall be necessary for each covered employee of such political subdivision to have a social security account number.

(1) Each employee shall make available for the records of the Payroll Record Unit the social security account number which has been assigned

by the Social Security Administration. If an employee does not have a number, the employee shall make application therefor with any field office of the Social Security Administration within seven days after the employee begins work for the reporting unit, except that the application shall be made on or before the employee leaves the employ of the reporting unit, if such date of leaving precedes the seventh day. Application is made on Form SS-5.

(2) Only one account number shall be assigned to any employee. Any employee whose name is changed by marriage or otherwise, or has stated incorrect information on Form SS-5, should report such change or correction to a field office of the Social Security Administration. The old name should be used for payroll and for wage report purposes, however, until the change has been processed by the Social Security Administration.

(3) The political subdivision shall enter the employee's name and account number exactly as shown on the individual's account number card on all records, returns, reports and claims. Upon failure of an individual to show the card when the individual first performs services under an agreement, the political subdivision by which the individual is employed shall request to see the individual's card.

(d) Identification Numbers for Coverage Groups. The Social Security Administration will assign an employer identification number to the state, each political subdivision thereof, and coverage group to be included under the Federal Old Age and Survivors Insurance System. If any political subdivision maintains more than one payroll record unit, a unit number will be assigned to each separate payroll record within the coverage group. The identification number, including the unit numbers assigned to payroll record units, if any, will be entered on all reports, returns, forms, claims and correspondence.

(e) Employee's Contribution. The employee's contribution is measured by the amount of wages actually received on or after the effective date of

the agreement or modification entered into between the State and the Secretary of Health, Education and Welfare with respect to services performed in employment by the employee in a coverage group included in such agreement or modification. After the maximum reportable wages as provided in Title II of the Federal Social Security Act have been paid an employee during a calendar year, additional wages paid that employee are not subject to deductions for Social Security taxes and no further wage contributions are required by the employee during the remainder of the calendar year.

(1) The social security tax rates to be applied against the wages of employees within the coverage group and which are to be matched with an equal amount by the reporting unit are the contribution rates established by Title II of the Federal Social Security Act.

(2) Taxes shall be computed on the basis of the rate effective at the time the wages are actually or constructively received or paid.

However, remuneration received by an employee subsequent to the effective date of coverage for services rendered in a period prior to the effective date of coverage cannot be regarded as "wages received for employment" and such amounts are, therefore, not subject to tax. Therefore, where the State Agreement makes social security coverage effective January 1, of a calendar year, remuneration received by an employee in such calendar year for services rendered in the previous calendar year cannot be regarded as "wages received for employment" and such amounts are, therefore, not subject to tax.

(3) Where an employee performs services during a calendar year for more than one political subdivision, the wages paid in any calendar year to such employee by each such political subdivision not in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act shall be reported by each such subdivision, with the following exception. Where the State of Minnesota pays the matching employer social security con-

tributions tax, such as for teachers in Minnesota Public Schools, then only the maximum reportable wages as provided in Title II of the Federal Social Security Act paid to such individual in the aggregate by all Minnesota Public Schools are subject to the social security tax and reported as wages.

(4) The reporting unit shall be responsible for and shall collect from each employee the amount of tax determined to be due by deducting said amount from employee's wages when actually or constructively paid. The reporting unit shall collect the tax notwithstanding the fact that the wages are paid in media other than money. After the matching amount has been provided by the reporting unit, the total social security contribution shall be remitted to the State Agency, State of Minnesota, for credit to the Social Security Contributions Fund in accordance with the following schedule:

(aa) Except as provided in paragraphs (bb) and (cc), the social security contributions due on the wages being reported shall be forwarded to the State Agency at the time the quarterly wage report, Form OAR-S3, is submitted to the State Agency in accordance with the time schedule set forth in Section (f)(2) of these Rules and Regulations.

(bb) Effective July 1, 1975, if at the end of any month during a quarterly period, the unremitted employee social security deductions amount to $200 or more, such employee social security contributions shall be remitted to the State Agency within 20 calendar days after the end of such month.

(cc) Notwithstanding item (bb) above, effective July 1, 1975, if the total employee social security contributions deduction amounts to $1,000 or more for any given payroll period during a quarterly period, then the employee social security contributions so withheld shall be remitted to the State Agency within 10 working days after the salary payment has been made to the employees covering that payperiod.

(dd) The matching employer social security contributions covering items

(bb) and (cc) above shall be remitted at the time the quarterly wage report, Form OAR-S3, is submitted to the State Agency in accordance with the time schedule set forth in Section (f)(2) of these Rules and Regulations. This paragraph does not apply wherein the State, by law, assumes the responsibility for the matching employer social security contributions pursuant to MS 355.46, Subdivision 3(b).

The social security contribution remittances indicated above must be submitted with an approved Remittance Form prescribed by the State Agency unless the remittance accompanies the quarterly wage report form.

(5) The reporting unit is liable for the employee's share of the tax whether or not such share has been withheld from the employee's wages. In like manner, the employee shall be deemed liable for the employee's share of the tax on all wages received by the employee not in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act per calendar year.

(6) If any political subdivision which has been included in the coverage agreement, or any modification thereof, fails to make the social security payments required by law and these regulations, the delinquent payments due, with interest at the rate of six percent per annum, or the minimum penalty as established by Paragraph (f) (6) of these rules, whichever is greater, may be recovered by action of the state agency in a court of competent jurisdiction against each and every political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such political subdivision by any department or agency of the state.

(7) A political subdivision is not authorized to begin making deductions for Social Security taxes from earnings of employees until after the coverage agreement, or any modification thereof, has been approved on

behalf of the Federal Government by the Secretary of Health, Education and Welfare. However, as soon as the agreement has been fully executed and the modification thereof, if any, has been approved, the political subdivision must make the necessary deductions from earnings, retroactive to effective date of said agreement or modification thereof, so that in the aggregate such deductions may be transmitted to the State Agency along with initial reports before the initial deadline as determined by the state agency. The exact method and time of deducting retroactive contributions from employees are matters to be determined by each political subdivision individually.

(8) The responsibility of each political subdivision to make the required deductions from earnings of all covered employees shall not be affected by the fact that some employees may, while employed, be receiving social security benefits.

(f) Wage Reports. Every political subdivision, and coverage group therein, included in the coverage agreement, or any modification thereof, shall make a wage report to the State Agency for each calendar quarter beginning with the first calendar quarter with respect to which the agreement or modification is effective, until it files a final report as required by law.

(1) The original and one duplicate copy of the consolidated quarterly payroll report shall be submitted on Form OAR-S3 for each political subdivision in conformity with the requirements of the Secretary of Health, Education and Welfare. Each quarterly report must be a consolidated report, which shall include all covered wages paid to personnel employed by any department, boards, and commissions reportable under the identification number assigned to the political subdivision or coverage group. The summary information shall be shown at the bottom of page 1 of the Form OAR-S3 report.

(2) Each quarterly report, properly completed, must be received by the State Agency, State of Minnesota, not later than the following dates:

April [redacted] (for the quarter ended March [redacted])

July 20 (for the quarter ended June 30)

October 20 (for the quarter ended September 30)

January 20 (for the quarter ended December 31)

(3) Each quarterly report must be accompanied by a check or checks made payable to Minnesota State Treasurer, Contribution Fund, or copy of the Remittance Form prescribed in Paragraph (e) (4) above, which amount shall equal both the required contribution of the political subdivision and the required deductions from the earnings of all personnel in the coverage group. Fractional parts of a cent shall not be disregarded in the computation of contributions. In payment of contributions to the State Agency, a political subdivision may disregard a fractional part of a cent unless it amounts to one-half cent or more, in which case it shall be increased to the nearest cent.

(4) The initial quarterly reports and required remittances for the period from the effective date of coverage to the end of the quarter in which any political subdivision becomes covered under the agreement, or any modification thereof, between the state and the Secretary of Health, Education and Welfare must be transmitted so as to be received by the State Agency, State of Minnesota, on or before the date fixed by the State Agency for the filing of such initial reports.

(5) Even though no wages are paid in a quarter, it is necessary that a report on Form OAR-S3 be filed by the coverage group indicating "no covered wages paid". This notation should be made on the body of the form.

(6) If any quarterly report is not received by the State Agency within the respective established deadlines, interest will be charged to the political subdivision at the rate of six percent per annum on reportable contributions for each month or part of a month from the date due, but in no case will such interest charge or penalty be less than five dollars ($5.00).

(7) The original and one copy of any adjustment report called "State's Report of Adjustments", Form OAR-S4 shall be immediately completed and forwarded to the State Agency upon determination by the political subdivision that one or more of the following errors were made on one or more quarterly wage reports or on a previously submitted adjustment report.

(aa) Wages omitted from report.

(bb) Not enough wages reported.

(cc) Excessive wages reported.

(dd) Wages in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act reported.

(ee) Wages shown on report for wrong quarter.

(ff) Wages reported for wrong individual.

The political subdivision shall be liable for the payment of interest on any Form OAR-S4 adjustment report which is determined by the federal government to be delinquent.

(8) The adjustments listed in Paragraph (f) (7) above must be submitted before the expiration of the time limitations established by the Federal Statute of Limitations which are as follows:

(aa) Adjustments covering reporting of additional wages resulting in the assessment of additional taxes must be received by Social Security Administration before the latest of the following:

(1) 3 years, 3 months, and 15 days after the year in which the wages, upon which the additional tax became due under the agreement, were paid, or

(2) 3 years after the date on which such tax became due.

(bb) Adjustments covering reduction or cancellation of wages previously reported and resulting in a claim for refund or credit must be

received by Social Security Administration before the latest of the following:

(1) 3 years, 3 months, and 15 days after the year which includes the calendar quarter in which wages were paid or allege to have been paid with respect to which the overpayment occurred; or

(2) 3 years after the due date of the payment which included the overpayment, or

(3) 2 years after the overpayment was made to the Secretary of the Treasury by the State Agency.

(g) Records. Every political subdivision shall keep accurate records of all remuneration, whether in cash or in a medium other than cash, paid or available for payment to employees of the political subdivision.

(1) Each political subdivision shall use such forms and systems of accounting as will enable the State Agency, the State Agency's duly authorized representatives, or the agents of the Secretary of Health, Education and Welfare, to ascertain whether the social security taxes for which the political subdivision or coverage group is liable are correctly computed and paid. Such records shall show with respect to each employee:

(aa) The name, address and account number of the employee and such additional information with respect to the employee as is required by these regulations when the employee does not show the employee's social security account number card as issued to the employee.

(bb) The total amount (including any sum withheld therefrom as contribution or any other reason) and date of each remuneration payment and the period of services covered by such payment.

(cc) The amount of such remuneration payment which constitutes wages subject to tax.

(dd) The amount of employee's contributions withheld or collected with respect to each total remuneration payment, and if collected at a

time other than the time such payment was made, the date collected.

If the total remuneration, item (bb) above, and the amount thereof which is subject to tax, item (cc) above, are not equal, the reason therefor shall be made as a matter of record.

Accurate records of the details of each adjustment or settlement, made pursuant to any state agency instructions or regulations or federal regulations, shall also be kept by the political subdivision.

(2) Each such political subdivision shall keep a copy of any return, report, schedule, statement or any other documents as a part of its records.

(3) Any such political subdivision or any employee claiming refund, credit or abatement of any tax or interest collected shall present a detailed record to establish the validity of such claim.

(4) All records required by these regulations shall be kept at a convenient and safe location accessible to representatives of the Secretary of Health, Education and Welfare and of the State Agency, State of Minnesota. Such records shall at all times be open for inspection by such officials.

(5) Every such political subdivision shall establish a system of controls whereby no employee shall be taxed on wages in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act for each calendar year. These controls shall be set up so that the tax will be withheld on exactly the maximum reportable wages as provided in Title II of the Federal Social Security Act received by an employee in a calendar year. There shall be no pro-rating of the year's total tax liability of such employees over the twelve months' period.

(6) All records required by these regulations shall be maintained for a period of at least four years after the date the contributions, to which they relate, became due, or after the date the contributions were paid,

whichever is later. Records required in Paragraph (g)(3) above shall be maintained for a period of at least four years after date in which the claim is filed. No records shall be destroyed or otherwise disposed of, even after the lapse of the four years, without the written consent required pursuant to M.S. 138.17.

(7) Any political subdivision whose existence is terminated by reorganization, consolidation or annexation or which is abolished by statute or other legal action must report such fact to the State Agency at the time the final Quarterly Wage Report (Form OAR-S3) is submitted and also indicate at that time where all records and documents will be stored or maintained and the name of the individual or officer responsible for the safe keeping of such records and documents.

(8) Each such political subdivision shall furnish to each individual performing service in employment as an employee in a coverage group included in the agreement, or any modification thereof, a written statement showing with respect to wages paid or available for payment to the employee for such service on or after the effective date of the agreement or modification:

(aa) The name and identification number of the political subdivision or coverage group in which services were performed;

(bb) The name and account number of the employee;

(cc) The period covered by the statement;

(dd) The total amount of wages subject to contributions paid during this period; and

(ee) The amount of employee's contribution withheld in respect to wages.

The statements must be given to employees not later than January 31 of the year following the calendar year covered by the statement unless the employee leaves employment in a coverage group, in which case,

the final statement must be given to the employee on the date the last payment of wages is made. Since all employers, including the state and political subdivisions, are required to furnish employees with statements of income tax withheld and statements of social security contributions withheld, Form W-2, Withholding Statement, should be used for the above purposes.

(9) Each political subdivision or reporting unit shall, at the request of the State Agency, furnish the State Agency within thirty days after the end of a calendar year a consolidated report listing the following information as it appears on the W-2 Form issued to each individual for that calendar year:

(aa) Name and Social Security Account Number of each employee,

(bb) Total wages paid,

(cc) Social Security (FICA) taxes withheld, and

(dd) Retirement system membership, if any.

(h) Administrative Costs. Each department or agency of the state and each political subdivision which is included in the coverage agreement or modification entered into between the state and the Secretary of Health, Education and Welfare will be liable for a pro-rata share of the costs of administration of M.S. 355, as certified by the State Agency. The amounts certified will be based upon the social security contribution tax paid or payable on wages paid to employees of said political subdivision or coverage group coming within the provision of said Law, provided that in addition to the above ordinary reimbursable expenses, the State Agency may charge a political subdivision for any extraordinary costs of administration relating to matters affecting exclusively that particular political subdivision. Notwithstanding the above provisions for determination of the pro-rata charges, there shall be a minimum pro-rata charge of five dollars ($5.00) for each reporting unit which reports wages for any individual during the period

involved. The amounts certified shall be due and payable upon notice from the State Agency and all checks shall be payable to Minnesota State Treasurer, State Agency Revolving Fund. Further, the amounts appropriated, if any, by the State Legislature to cover the pro-rata costs of state departments and agencies operating on state appropriations shall be considered to fully cover the pro-rata charges of such departments and agencies for such period.

(i) Neither wage reports nor social security contributions may be made direct to the Social Security Administration or Federal Reserve Bank by a political subdivision.

199 - 200 reserved for future use.

APPROVED AS TO FORM AND LEGALITY
1/6 1975
WARREN SPANNAUS, ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED - 10:30 am
JAN - 6 1975
Arlen I. Erdahl
Secretary of State

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
JAN 6 1975 11:00 am
BY Edna Staudenmaier
AUTH. SIGNATURE

STATE OF MINNESOTA

COUNTY OF RAMSEY

STATE DEPARTMENT OF PERSONNEL

In the matter of the Proposed Adoption of Rules of the State Personnel Department Governing Social Security Reporting and Payment.

ORDER FOR HEARING

To effectively implement Minnesota Statutes, Chapter 355 (1971), the Minnesota Commissioner of Personnel deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in me by M.S. Chapter 43.06 (1973).

NOW, THEREFORE, IT IS ORDERED this 26th day of August, 1974, that a public hearing on the proposed rules captioned above be held in Room 116 of the State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota, on October 17, 1974, commencing at 9:00 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose.

STATE OF MINNESOTA

DEPARTMENT OF PERSONNEL

John W. Jackson

John W. Jackson
Commissioner of Personnel

STATE OF MINNESOTA

COUNTY OF RAMSEY

STATE DEPARTMENT OF PERSONNEL

In the matter of the Proposed Adoption of Rules of the State Personnel Department Governing Social Security Reporting and Payment.

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to M.S. 1971, Section 15.0412, Subdivision 4, in the above-entitled matter in Room 116 of the State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota, on October 17, 1974, commencing at 9:00 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing. The proposed rule amendments relate to state, county and local reporting and payment amounts and times, to reflect changes in Title II of the Federal Social Security Act.

Copies of the proposed rules are now available and may be obtained by writing to the Department of Personnel, 215 State Administration Building, St. Paul, Minnesota 55155.

STATE OF MINNESOTA
DEPARTMENT OF PERSONNEL

John W. Jackson

John W. Jackson
Commissioner of Personnel

PROPOSED
RULES & REGULATIONS
M.S. 355

~~Admin.-98~~ Personnel

(a) Authorization. Pursuant to ~~Minnesota Statutes 1967, Chapter 355,~~ ~~as amended~~ M.S. 355, the following rules and regulations are promulgated to be applicable to the state, any political subdivision thereof, or coverage group to be included under the Federal Old Age and Survivors Insurance System.

(b) Definition of terms. The terms defined in this section shall have the meaning ascribed to them herein.

(1) The terms "State Agency", "wages", "employment", "employee", "Social Security Act", "political subdivision", and "Federal Insurance Contributions Act", mean as defined in ~~Minnesota Statutes 1967, Chapter 355,~~ ~~as amended~~ M.S. 355.

(2) The term "Coverage Group" means the grouping of positions in any political subdivision or political subdivisions of the state as they are brought under the provisions of the Federal Social Security Act, pursuant to ~~Minnesota Statutes 1967, Chapter 355, as amended,~~ M.S. 355, and for which contributions for each grouping are required by law to be transmitted to the State Agency.

(c) Employee Account Numbers. At the time a political subdivision makes its first quarterly report for Federal Old Age and Survivors Insurance, it shall be necessary for each covered employee of such political subdivision to have a social security account number.

(1) Each employee shall make available for the records of the Payroll Record Unit the social security account number which has been assigned

by the Social Security Administration. If an employee does not have a number, he the employee shall make application therefor with any field office of the Social Security Administration within seven days after he the employee begins work for the reporting unit, except that the application shall be made on or before the employee leaves the employ of the reporting unit, if such date of leaving precedes the seventh day. Application is made on Form SS-5.

(2) Only one account number shall be assigned to any employee. Any employee whose name is changed by marriage or otherwise, or has stated incorrect information on Form SS-5, should report such change or correction to a field office of the Social Security Administration. The old name in ~~case of marriage, for example,~~ should be used for payroll and for wage report purposes, however, until the change has been processed by the Social Security Administration.

(3) The political subdivision shall enter the employee's name and account number exactly as shown on his the individual's account number card on all records, returns, reports and claims. Upon failure of an individual to show his the card when he the individual first performs services under an agreement, the political subdivision by which he the individual is employed shall request to see the individual's card. ~~If the employee does not have an account number card in his possession, there are several alternatives provided by Federal regulations, which are presented below in order of preference:~~

~~(aa) The employee may show a receipt issued to him by a field office of the Social Security Administration, acknowledging that application for account number has been received. In such cases, the political subdivision shall enter in its records the date of issue of the receipt, its termination date, the address of the issuing office, and the name and address of the employee exactly as shown in the receipt. The receipt is to be retained by the employee.~~

~~(bb) The employee may give to the political subdivision a copy of Form SS-5 completely filled in and signed by him. This is a temporary~~

~~expedient;-the-employee-would-at-the-same-time-take-immediate-steps-to-file an-application-as-provided-in-paragraph-(a)-(1)-above.~~

~~(cc)--If-a-copy-of-Form-SS-5-is-not-available,-the-employee may-instead-give-to-the-political-subdivision-a-signed-statement-listing-the date-of-the-statement,-his-full-name,-present-address,-date-and-place-of birth,-father's-full-name,-mother's-full-name-before-marriage,-and-the individual's-sex-and-color.--The-statement-shall-also-indicate-whether-he-has previously-filed-application-on-Form-SS-5,-and-if-so,-the-date-and-place-of filing.~~

(d) Identification Numbers for Coverage Groups. The Social Security Administration will assign an employer identification number to the state, each political subdivision thereof, and coverage group to be included under the Federal Old Age and Survivors Insurance System. If any political subdivision maintains more than one payroll record unit, a unit number will be assigned to each separate payroll record within the coverage group. The ~~identification number, including the unit numbers assigned to payroll record~~ units, if any, will be entered on all reports, returns, forms, claims and correspondence.

(e) Employee's Contribution. The employee's contribution is measured by the amount of wages actually received on or after the effective date of the agreement or modification entered into between the State and the Secretary of Health, Education and Welfare with respect to services performed in employment by the employee in a coverage group included in such agreement or modification. After ~~$7,800 in wages~~ the maximum reportable wages as provided in Title II of the Federal Social Security Act have been paid an employee during a calendar year, additional wages paid that employee are not subject to deductions for Social Security taxes and no further wage contributions are required by ~~him~~ the employee during the remainder of the calendar year.

~~(1)--Subject-to-such-rate-and-date-changes-as-may-be-made-hereafter~~

from-time-to-time-in-the-Federal-Social-Security-Act,-Federal-Insurance-Contributions-Act,-or-in-any-other-federal-law-pertaining-thereto,-and-effective contemporaneously-with-the-effective-date-of-the-rate-and-date-changes-therein, the-Social-Security-tax-rates-to-be-applied-against-all-wages-of-employees-within the-"Coverage-group"-and-which-are-to-be-matched-with-an-equal-amount-by-the reporting-unit-as-follows:

For-the-calendar-years-1969-and-1970	4.8%
For-the-calendar-years-1971-and-1972	5.2%
For-the-calendar-years-1973-to-1975-inclusive	5.65%
For-the-calendar-years-1976-to-1979-inclusive	5.7%
For-the-calendar-years-1980-to-1986-inclusive	5.8%
For-the-calendar-year-1987-and-after	5.9%

(1) The social security tax rates to be applied against the wages of employees within the coverage group and which are to be matched with an equal amount by the reporting unit are the contribution rates established by Title II of the Federal Social Security Act.

(2) Taxes shall be computed on the basis of the rate effective at the time the wages are actually or constructively received or paid.

For-example:--During-1970,-"A"-is-engaged-as-an-instructor-at-the University.--In-January-of-the-following-year,-1971,-he-received $250-from-the-University-as-remuneration-for-services-which-he rendered-during-December-1970.--The-tax-liability-of-the-employee is-computed-on-the-basis-of-5.2%-rather-than-4.8%-and-the-University's matching-share-of-the-tax-is-also-contributed-at-the-5.2%-rate.

However, remuneration received by an employee subsequent to the effective date of coverage for services rendered in a period prior to the effective date of coverage cannot be regarded as "wages received for employment" and such amounts are, therefore, not subject to tax. Therefore, where the State Agreement makes social security coverage effective January 1, 1968, of

a calendar year, remuneration received by an employee ~~in 1968~~ such calendar year for services rendered in ~~1959~~ the previous calendar year cannot be regarded as "wages received for employment" and such amounts are, therefore, not subject to tax.

(3) Where an employee performs services during a calendar year for more than one political subdivision, the wages paid in any calendar year to such employee by each such political subdivision not in excess of ~~$7,800~~ the maximum reportable wages as provided in Title II of the Federal Social Security Act shall be reported by each such subdivision, with the following exception. Where the State of Minnesota pays the matching employer social security contributions tax, such as for teachers in Minnesota Public Schools, then only ~~the first $7,800 in wages~~ the maximum reportable wages as provided in Title II of the Federal Social Security Act paid to such individual in the aggregate by all Minnesota Public Schools ~~is~~ are subject to the social security tax and reported as wages.

(4) The reporting unit shall be responsible for and shall collect from each employee the amount of tax determined to be due by deducting said amount from employee's wages when actually or constructively paid. The reporting unit shall collect the tax notwithstanding the fact that the wages are paid in media other than money. After the matching amount has been provided by the reporting unit, the total ~~tax shall be remitted to the Commissioner of Administration, State of Minnesota, for the Contribution Fund in accordance with the detailed instructions set forth in Section (f) of these regulations~~ social security contribution shall be remitted to the State Agency, State of Minnesota, for credit to the Social Security Contributions Fund in accordance with the following schedule:

(aa) If at the end of a quarterly period the total amount of the unremitted social security contributions tax is less than $200, the social security contributions shall be remitted at the time the quar-

terly wage report (Form [redacted]R-S3) is submitted to the S[redacted]e Agency.

(bb) If at the end of any month during a quarterly period the unremitted social security contributions tax is $200 or more, such social security contributions shall be remitted to the State Agency within 20 calendar days after the end of such month.

(cc) Notwithstanding item (bb) above, if the total employee social security contributions deduction amounts to $1,000 or more for any given payroll period during a quarterly period, then the employee social security contribution so withheld, plus any matching employer contribution, if applicable, shall be remitted to the State Agency within 5 working days after the salary payment has been made to the employees covering that pay-period.

(dd) The above schedule will permit the State to make timely deposits as required under present U. S. Treasury regulations. Should such U. S. Treasury regulations be amended at any future date to require more frequent deposits by the State, the State Agency shall establish, in lieu of Paragraph (4) (aa), (bb), and (cc), such remittance schedules as will permit the State to comply with the amended U. S. Treasury regulations covering depositing of social security contributions for governmental units.

The social security contribution remittances indicated above must be submitted with an approved Remittance Form prescribed by the State Agency unless the remittance accompanies the quarterly wage report form.

(5) The reporting unit is liable for the employee's share of the tax whether or not such share has been withheld from the employee's wages. In like manner, the employee shall be deemed liable for ~~his~~ the employee's share of the tax on all wages received by ~~him~~ the employee not in excess of ~~$7,800~~ the maximum reportable wages as provided in Title II of the Federal Social Security Act per calendar year.

(6) If any political subdivision which has been included in the coverage agreement, or any modification thereof, fails to make the social security payments required by law and these regulations, the delinquent payments due, with interest at the rate of six percent per annum, or the minimum penalty as established by Paragraph (f) (6) of these rules, whichever is greater, may be recovered by action of the state agency in a court of competent jurisdiction against each and every political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such political subdivision by any department or agency of the state.

(7) A political subdivision is not authorized to begin making deductions for Social Security taxes from earnings of employees until after the coverage agreement, or any modification thereof, has been approved on behalf of the Federal Government by the Secretary of Health, Education and Welfare. However, as soon as the agreement has been fully executed and the modification thereof, if any, has been approved, the political subdivision must make the necessary deductions from earnings, retroactive to effective date of said agreement or modification thereof, so that in the aggregate such deductions may be transmitted to the State Agency along with initial reports before the initial deadline as determined by the state agency. The exact method and time of deducting retroactive contributions from employees are matters to be determined by each political subdivision individually.

(8) The responsibility of each political subdivision to make the required deductions from earnings of all covered employees shall not be affected by the fact that some employees may, while employed, be receiving social security benefits.

(f) Wage Reports. Every political subdivision, and coverage group therein, included in the coverage agreement, or any modification thereof, shall make a wage report to the ~~Commissioner of Administration~~ State Agency for each calendar quarter beginning with the first calendar quarter with respect

to which the agreement [redacted]modification is effective, [redacted]til it files a final report as required by law.

(1) The original and one duplicate copy of the consolidated quarterly payroll report shall be submitted on Form OAR-S3 for each political subdivision ~~or coverage group~~ in conformity with the requirements of the Secretary of Health, Education and Welfare, Each quarterly report must be a consolidated report, which shall include all covered wages paid to personnel employed by any department, boards, and commissions reportable under the identification number assigned to the political subdivision or coverage group. The summary information shall be shown at the bottom of page 1 of the Form OAR-S3 report.

(2) Each quarterly report, properly completed, must be received by the ~~Commissioner of Administration~~, State Agency, State of Minnesota, not later than the following dates:

April 20 (for the quarter ended March 31)

July 20 (for the quarter ended June 30)

October 20 (for the quarter ended September 30)

January 20 (for the quarter ended December 31)

(3) Each quarterly report must be accompanied by a check or checks made payable to Minnesota State Treasurer, Contribution Fund, or copy of the Remittance Form prescribed in Paragraph (e) (4) above, which amount shall equal both the required contribution of the political subdivision ~~or coverage group~~ and the required deductions from the earnings of all personnel in the coverage group. Fractional parts of a cent shall not be disregarded in the computation of contributions. In payment of contributions to the State Agency, a political subdivision may disregard a fractional part of a cent unless it amounts to one-half cent or more, in which case it shall be increased to the nearest cent.

(4) The initial quarterly reports and required remittances for the period from the effective date of coverage to the end of the quarter in

which any political subdivision ~~or coverage group~~ becomes covered under the agreement, or any modification thereof, between the state and the Secretary of Health, Education and Welfare must be transmitted so as to be received by the ~~Commissioner of Administration~~ State Agency, State of Minnesota, on or before the date fixed by the ~~Commissioner~~ State Agency for the filing of such initial reports.

(5) Even though no wages are paid in a quarter, it is necessary that a report on Form OAR-S3 be filed by the coverage group indicating "no covered wages paid". This notation should be made on the body of the form.

(6) If any quarterly report is not received by the ~~Commissioner of Administration~~ State Agency within the respective established deadlines, interest will be charged to the political subdivision ~~or coverage group, as the case may be,~~ at the rate of six percent per annum on reportable contributions for each month or part of a month from the date due, but in no case will such interest charge or penalty be less than five dollars ($5.00).

(7) The original and one copy of any adjustment report called "State's Report of Adjustments", Form OAR-S4 shall be immediately completed and forwarded to the ~~Commissioner of Administration~~ State Agency upon determination by the political subdivision that one or more of the following errors were made on one or more quarterly wage reports or on a previously submitted adjustment report.

(aa) Wages omitted from report.

(bb) Not enough wages reported.

(cc) Excessive wages reported.

(dd) Wages in excess of ~~$7,800~~ the maximum reportable wages as provided in Title II of the Federal Social Security Act reported.

(ee) Wages shown on report for wrong quarter.

(ff) Wages reported for wrong individual.

The political subdivision ~~or coverage group concerned, as the~~

case-may-be, shall be liable for the payment of an interest penalty on any Form OAR-S4 adjustment report which is determined by the federal government to be delinquent.

(8) The adjustments listed in Paragraph (f) (7) above must be submitted before the expiration of the time limitations established by the Federal Statute of Limitations which are as follows:

(aa) Adjustments covering reporting of additional wages resulting in the assessment of additional taxes must be received by Social Security Administration before the latest of the following:

(1) 3 years, 3 months, and 15 days after the year in which the wages, upon which the additional tax became due under the agreement, were paid, or

(2) 3 years after the date on which such tax became due.

(bb) Adjustments covering reduction or cancellation of wages previously reported and resulting in a claim for refund or credit must be received by Social Security Administration before the latest of the following:

(1) 3 years, 3 months, and 15 days after the year which includes the calendar quarter in which wages were paid or allege to have been paid with respect to which the overpayment occurred; or

(2) 3 years after the due date of the payment which included the overpayment, or

(3) 2 years after the overpayment was made to the Secretary of the Treasury by the State Agency.

(g) Records. Every political subdivision and-coverage-group shall keep accurate records of all remuneration, whether in cash or in a medium other than cash, paid or available for payment to employees of the political subdivision or-coverage-group.

(1) Each political subdivision and coverage group shall use such forms and systems of accounting as will enable the ~~Commissioner of Administration~~ State Agency, ~~his~~ the State Agency's duly authorized representatives, or the agents of the Secretary of Health, Education and Welfare, to ascertain whether the social security taxes for which the political subdivision or coverage group is liable are correctly computed and paid. Such records shall show with respect to each employee:

(aa) The name, address and account number of the employee and such additional information with respect to the employee as is required by these regulations when the employee does not show ~~his~~ the employee's social security account number card as issued to ~~him~~ the employee.

(bb) The total amount (including any sum withheld therefrom as contribution or any other reason) and date of each remuneration payment and the period of services covered by such payment.

(cc) The amount of such remuneration payment which constitutes wages subject to tax.

(dd) The amount of employee's contributions withheld or collected with respect to each total remuneration payment, and if collected at a time other than the time such payment was made, the date collected.

If the total remuneration, item (bb) above, and the amount thereof which is subject to tax, item (cc) above, are not equal, the reason therefor shall be made as a matter of record.

Accurate records of the deatils of each adjustment or settlement, made pursuant to any state agency instructions or regulations or federal regulations, shall also be kept by the political subdivision ~~or coverage group, as the case may be~~.

(2) Each such political subdivision ~~or coverage group~~ shall keep a copy of any return, report, schedule, statement or any other documents as a part of its records.

(3) Any such political subdivision ~~or coverage group~~ or any employee claiming refund, credit or abatement of any tax or interest collected shall present a detailed record to establish the validity of such claim.

(4) All records required by these regulations shall be kept at a convenient and safe location accessible to representatives of the Secretary of Health, Education and Welfare and of the ~~Commissioner of Administration~~ State Agency, State of Minnesota. Such records shall at all times be open for inspection by such officials.

(5) Every such political subdivision ~~or coverage group~~ shall establish a system of controls whereby no employee shall be taxed on wages in excess of ~~$7,888~~ the maximum reportable wages as provided in Title II of the Federal Social Security Act for each calendar year. These controls shall be set up so that the tax will be withheld on exactly the ~~first $7,888~~ maximum reportable wages as provided in Title II of the Federal Social Security Act received by an employee in a calendar year. There shall be no pro-rating of the year's total tax liability of such employees over the twelve months' period.

~~For example, if an employee is paid $888 per month, taxes would be deducted and wages reported in full through the end of the third calendar quarter, September 30th. By that time there would have been paid to the employee $7,288 in wages, and on the fourth quarter's report the employee would be shown as receiving only $688, and taxes would be withheld upon only $688 of his October check.~~

(6) All records required by these regulations shall be maintained for a period of at least four years after the date the contributions, to which they relate, became due, or after the date the contributions were paid, whichever is later. Records required in Paragraph (g) (3) above shall be maintained for a period of at least four years after date in which the claim

is filed. No records shall be destroyed or otherwise disposed of, even after the lapse of the four years, ~~without the written approval of the State Archives Commission~~ consent required pursuant to M.S. 138.17.

(7) Any political subdivision whose existence is terminated by reorganization, consolidation or annexation or which is abolished by statute or other legal action must report such fact to the State Agency at the time the final Quarterly Wage Report (Form OAR-S3) is submitted and also indicate at that time where all records and documents will be stored or maintained and the name of the individual or officer responsible for the safe keeping of such records and documents.

(8) Each such political subdivision ~~or coverage group~~ shall furnish to each individual performing service in employment as an employee in a coverage group included in the agreement, or any modification thereof, a written statement showing with respect to wages paid or available for payment to the employee for such service on or after the effective date of the agreement or modification:

(aa) The name and identification number of the political subdivision or coverage group in which services were performed;

(bb) The name and account number of the employee;

(cc) The period covered by the statement;

(dd) The total amount of wages subject to contributions paid during this period; and

(ee) The amount of employee's contribution withheld in respect to wages.

The statements must be given to employees not later than January 31 of the year following the calendar year covered by the statement unless the employee leaves employment in a coverage group, in which case, the final statement must be given to ~~him~~ the employee on the date the last payment of wages is made. Since all employers, including the state and

political subdivisions, are required to furnish employees with statements of income tax withheld and statements of social security contributions withheld, Form W-2, Withholding Statement, should be used for ~~both~~ the above purposes.

(9) Each political subdivision or reporting unit shall, at the request of the ~~Commissioner of Administration~~ State Agency, furnish the State Agency within thirty days after the end of a calendar year a consolidated report listing the following information as it appears on the W-2 Form issued to each individual for that calendar year:

(aa) Name and Social Security Account Number of each employee,

(bb) Total wages paid,

(cc) Social Security (FICA) taxes withheld, and

(dd) Retirement system membership, if any.

(h) Administrative Costs. Each department or agency of the state and each political subdivision ~~or coverage group~~ which is included in the coverage agreement or modification entered into between the state and the Secretary of Health, Education and Welfare will be liable for a pro-rata share of the costs of administration of ~~Minnesota Statutes 1967, Chapter 355,~~ as ~~amended~~ M.S. 355, as certified by the ~~Commissioner of Administration~~ State Agency. The amounts certified will be based upon the social security contribution tax paid or payable on wages paid to employees of said political subdivision or coverage group coming within the provision of said Law, provided that in addition to the above ordinary reimbursable expenses, the ~~Commissioner~~ State Agency may charge a political subdivision ~~or coverage group~~ for any extraordinary costs of administration relating to matters affecting exclusively that particular political subdivision ~~or coverage group~~. Notwithstanding the above provisions for determination of the pro-rata charges, there shall be a minimum pro-rata charge of ~~two~~ five dollars ~~($2.00)~~ ($5.00) for each reporting unit which reports wages for any individual during the period involved. ~~The appropriation requested by the State Agency from the~~

~~next-succeeding-Legislature-shall-reflect-any-differences-between-the-amounts of-such-appropriations-applied-to-the-pro-rata-costs-and-the-actual-pro-rata costs-attributable-to-such-state-departments-and-agencies.~~ The amounts so certified shall be due and payable upon notice from the State Agency and all checks shall be payable to ~~Commissioner-of-Administration~~ Minnesota State Treasurer, State Agency Revolving Fund. Further, the amounts appropriated, if any, by the State Legislature to cover the pro-rata costs of state departments and agencies operating on state appropriations shall be considered to fully cover the pro-rata charges of such departments and agencies for such period.

(i) Neither wage reports nor social security contributions returns may be made direct to the Social Security Administration or Federal Reserve Bank by a political subdivision.

AFFIDAVIT

Gloria Johnson, being duly sworn on oath, deposes and says:

1) That she is an employee of the Personnel Department of the State of Minnesota.

2) That on the 26th day of August, she called the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the 27th day of August, in response to the above request, the Secretary of State provided her with such list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Gloria Johnson

Subscribed and sworn to before me

this 6 day of September, 1974.

Colleen T. Kisch

COLLEEN T. KISCH
Notary Public, Ramsey Co. Mn.
MY COMMISSION EXPIRES
April 22, 1978

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed Adoption of Rules of the State Personnel Department Governing Social Security Reporting and Payment.

I hereby certify that the attached 379 letters + one sheets constitute the complete list of persons, associations, and other interested groups who as of 2:45 o'clock P.M., this 27th day of August, 1974, have requested pursuant to M.S. 1971, Section 15.0412, Subdivision 4, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Arlen I. Erdahl

Secretary of State
Arlen I. Erdahl

By Neil Dion

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the State Personnel Department Governing Social Security Reporting and Payment.

AFFIDAVIT OF MAILING

Gloria Johnson, being first duly sworn, deposes and says:

That on the 6th day of September, 1974, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Gloria Johnson

Subscribed and sworn to before me

this 6 day of September, 1974.

Colleen T. Kisch

COLLEEN T. KISCH
Notary Public, Ramsey Co. Mn.
MY COMMISSION EXPIRES
April 22, 1978

STATE OF MINNESOTA

STATE DEPARTMENT OF PERSONNEL

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the State Personnel Department Governing Social Security Reporting and Payment.

STATEMENT OF NEED

The above-captioned rules are amendments to the existing rules of the Department of Administration. These Rules were promulgated in 1968 and have not been amended since that time.

The need to amend these rules arises because of the following changes in state and federal law:

Chapter 507 of Minnesota Laws of 1973 transfers the functions that necessitate these rules from the Department of Administration to the Department of Personnel. The rules as amended are therefore being adopted by the Department of Personnel; the new numbering system indicates this change.

Since promulgation of these rules in 1968, the salary base upon which Social Security deductions are computable has risen; likewise, the rate of deduction and Statute of Limitations for Social Security purposes have been changed.

These alterations, as well as changes in methodology by the Federal Social Security Administration necessitate amendment to the rules governing State accounting and reporting procedures.

John W. Jackson

JOHN W. JACKSON
COMMISSIONER OF PERSONNEL

Dated: October 16, 1974

STATE OF MINNESOTA

STATE DEPARTMENT OF PERSONNEL

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the State Department of Personnel Governing Social Security Reporting and Payment.

FINDINGS OF FACT

The above-entitled matter came on for hearing before the Assistant Commissioner of Personnel of the State of Minnesota on the 17th day of October, 1974, at 9:00 A.M. in State Administration Building Hearing Room 116, St. Paul, Minnesota, after proper notice required by M.S. 1974, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

1. Since changes occur from time to time in both the base and rate upon which deductions are made, specific references thereto have been deleted and replaced with general references to avoid repeated rules amendments.

2. For the following reasons, more frequent reporting and collection dates are necessary:

a. They will facilitate reporting and payment by the State to the Federal government by allowing more time for preparation of reports and payments;

b. They will even the workload of the State agency;

c. They will give the State a more timely assurance that proper social security deductions, for which the State has assumed responsibility, are being taken from the employees' salaries.

3. Increased penalties for late or missing payments by local government units both cover administrative costs of securing compliance and provide a more effective deterrent to late and missing payments.

4. The increase in minimum billing is necessary to recover administrative costs incurred in processing small payments.

5. It is necessary to make provision for proper retention and safekeeping of pertinent wage records of consolidated or defunct units of local government for purposes of review and verification until corrections or adjustments are barred by Statute of Limitations.

6. Since sex discrimination is explicitly forbidden by Federal law and the policy of this department, all pronouns reflecting gender are changed to avoid such denotation.

STATE OF MINNESOTA
DEPARTMENT OF PERSONNEL

John W Jackson
COMMISSIONER OF PERSONNEL

Dated: December 16th, 1974.

STATE OF MINNESOTA

STATE DEPARTMENT OF PERSONNEL

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the State Department of Personnel Governing Social Security Reporting and Payment.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Deputy Commissioner of Personnel of the State of Minnesota on the 17th day of October, 1974, at 9:00 A.M. in the State Administration Building Hearing Room 116 after proper notice required by M.S. 1974, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards of criteria, and having confirmed the need for the above captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Persl 198 are adopted this 16th day of December, 1974, pursuant to authority vested in me by Minn. Stat. § 43.05, subd. 2 (2) (1973).

STATE OF MINNESOTA
DEPARTMENT OF PERSONNEL

John W. Jackson

COMMISSIONER OF PERSONNEL

STATEMENT OF COMPLIANCE WITH
MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Michael B. Miller, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

Michael B Miller
Special Assistant Attorney General

Dated: December 16, 1974