

action is not expected to cause any potentially significant impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (air).

#### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

*Paragraph 2006—Area Navigation Routes*  
\* \* \* \* \*

##### Q–20 CNX to JCT [New]

CNX VORTAC  
(lat. 34°22'01" N., long. 105°40'41" W)  
HONDS FIX  
(lat. 33°33'60" N., long. 104°51'12" W)  
UNNOS WP  
(lat. 32°57'00" N., long. 103°56'00" W)  
FUSCO WP  
(lat. 31°11'02" N., long. 101°19'30" W)  
JCT VORTAC  
(lat. 30°35'53" N., long. 099°49'03" W)  
\* \* \* \* \*

##### Q–22 GUSTI to CATLN [New]

GUSTI FIX  
(lat. 29°58'15" N., long. 092°54'35" W)  
OYSTY FIX  
(lat. 30°28'15" N., long. 090°11'49" W)  
RUBAE WP  
(lat. 30°55'27" N., long. 088°22'11" W)  
CATLN FIX  
(lat. 31°18'26" N., long. 087°34'48" W)  
\* \* \* \* \*

##### Q–24 LCH to PAYTN [New]

LCH VORTAC  
(lat. 30°08'29" N., long. 093°06'20" W)  
BTR VORTAC  
(lat. 30°29'06" N., long. 091°17'39" W)  
IRUBE WP  
(lat. 31°00'16" N., long. 088°56'19" W)  
PAYTN FIX  
(lat. 31°28'04" N., long. 087°53'08" W)  
\* \* \* \* \*

Issued in Washington, DC, on December 8, 2005.

**Edith V. Parish,**

*Manager, Airspace and Rules.*

[FR Doc. 05–24069 Filed 12–14–05; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 31 and 32

[TD 9233]

RIN 1545–BC89

#### Sickness or Accident Disability Payments

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations providing guidance regarding the treatment of payments made on account of sickness or accident disability under a workers' compensation law for purposes of the Federal Insurance Contributions Act (FICA).

**DATES:** *Effective Date:* These regulations are effective December 15, 2005.

*Applicability Date:* These regulations apply to payments on account of sickness or accident disability payments made on or after December 15, 2005.

**FOR FURTHER INFORMATION CONTACT:** David Ford (202) 622–6040 (not toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains amendments to 26 CFR parts 31 and 32 under section 3121(a)(2) of the Internal Revenue Code (Code). This section exempts from wages for Federal Insurance Contributions Act (FICA) purposes payments made on account of sickness or accident disability that are received under a "workmen's compensation law," hereinafter referred to as a workers' compensation law.

Proposed regulations (Reg–160315–03) under section 3121(a)(2) were published in the **Federal Register** (70 FR 12164) on March 11, 2005. No written comments responding to the notice of proposed rulemaking were received and a public hearing was not requested or held. Accordingly, the proposed regulations are adopted as final regulations. In addition, this document contains amendments to § 32.1 of the Temporary Employment Tax Regulations to provide guidance

that the definition of workers' compensation law in the final regulations under § 31.3121(a)(2)–1 applies for payments on account of sickness or accident disability made on or after December 15, 2005.

#### Explanation of Provisions

Section 3121(a)(2)(A) of the Code exempts from "wages" for FICA tax purposes payments to an employee or any of his dependents on account of sickness or accident disability only if the payments are received under a workers' compensation law.

Section 3121(a)(4) provides that wages does not include any payment on account of sickness or accident disability made by an employer to or on behalf of an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for the employer. Thus, unless made under a workers' compensation law, payments received on account of sickness or accident disability are wages subject to FICA during the first 6 months the employee is out of work.

These final regulations amend § 31.3121(a)(2)–1 to provide that payments made under a statute in the nature of a workers' compensation act will be treated as having been made under a workers' compensation law and, therefore excluded from wages for FICA purposes. For income tax purposes, section 104(a)(1) excludes from gross income certain amounts received under "workmen's compensation acts." Section 1.104–1(b) of the Income Tax Regulations, provides that amounts received under section 104(a)(1) include amounts received by an employee under a statute in the nature of a workers' compensation act. Thus, the final regulations align the interpretation of what constitutes payments received under a workers' compensation law for FICA purposes with § 1.104–1(b) of the Income tax regulations.

The preamble to the proposed regulations specified that § 32.1 of the Temporary Employment Tax Regulations would be amended, if needed. It is necessary to remove the reference to § 31.3121(a)(2)–1(a)(2) in the first phrase of § 32.1(a) and insert a reference to § 31.3121(a)(2)–1(d)(3) in § 32.1(a)(1) to specify that the definition of workers' compensation law applicable to payments on account of sickness or accident disability made on or after December 15, 2005, is now in final regulation § 31.3121(a)(2)–1(d)(3). No other amendments are made to § 32.1.

The preamble to the proposed regulations also specified that guidance

would be provided related to Federal Unemployment Tax Act (FUTA) to the extent necessary. The Service has concluded that no additional guidance is necessary for FUTA since these payments are made to employees of states and local governments and FUTA does not apply to services performed by state or local government employees.

**Special Analyses**

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. In addition, because no collection of information is imposed on small entities, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact on small business.

**Drafting Information**

The principal author of these regulations is David Ford of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt/Government Entities). However, other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects**

26 CFR Part 31

Employment taxes; Fishing vessels; Gambling; Income taxes; Penalties; Pensions; Railroad retirement; Reporting and recordkeeping requirements; Social security; Unemployment compensation.

26 CFR Part 32

Employment taxes; Railroad retirement; Reporting and recordkeeping requirements; Social security.

**Adoption of Amendments to the Regulations**

■ Accordingly, 26 CFR parts 31 and 32 are amended as follows:

**PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT THE SOURCE**

■ **Paragraph 1.** The authority section for part 31 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 31.3121(a)(2)–1 is amended by:

1. Revising the section heading.
  2. Removing paragraph (a)(1).
  3. Redesignating paragraphs (a)(2) through (a)(4) as (a)(1) through (a)(3), respectively.
  4. Revising newly designated paragraph (a)(1).
  5. Redesignating paragraph (d) as (f).
  6. Adding new paragraphs (d) and (e).
- The revisions and additions are as follows:

**§ 31.3121(a)(2)–1 Payments on account of sickness or accident disability, medical or hospitalization expenses, or death.**

(a) \* \* \*

(1) Sickness or accident disability of an employee or any of his dependents, only if payment is received under a workers' compensation law;

\* \* \* \* \*

(d) *Workers' compensation law.* (1) For purposes of paragraph (a)(1) of this section, a payment made under a workers' compensation law includes a payment made pursuant to a statute in the nature of a workers' compensation act.

(2) For purposes of paragraph (a)(1) of this section, a payment made under a workers' compensation law does not include a payment made pursuant to a State temporary disability insurance law.

(3) If an employee receives a payment on account of sickness or accident disability that is not made under a workers' compensation law or a statute in the nature of a workers' compensation act, the payment is not excluded from wages as defined by section 3121(a)(2)(A) even if the payment must be repaid if the employee receives a workers' compensation award or an award under a statute in the nature of a workers' compensation act with respect to the same period of absence from work.

(4) If an employee receives a payment on account of non-occupational injury sickness or accident disability such payment is not excluded from wages, as defined by section 3121(a)(2)(A).

(e) *Examples.* The following examples illustrate the principles of paragraph (d) of this section:

*Example 1.* A local government employee is injured while performing work-related activities. The employee is not covered by the State workers' compensation law, but is covered by a local government ordinance that requires the local government to pay the employee's full salary when the employee is out of work as a result of an injury incurred while performing services for the local government. The ordinance does not limit or otherwise affect the local government's liability to the employee for the work-related injury. The local ordinance is not a workers' compensation law, but it is in the nature of

a workers' compensation act. Therefore, the salary the employee receives while out of work as a result of the work-related injury is excluded from wages under section 3121(a)(2)(A).

*Example 2.* The facts are the same as in *Example 1* except that the local ordinance requires the employer to continue to pay the employee's full salary while the employee is unable to work due to an injury whether or not the injury is work-related. Thus, the local ordinance does not limit benefits to instances of work-related disability. A benefit paid under an ordinance that does not limit benefits to instances of work-related injuries is not a statute in the nature of a workers' compensation act. Therefore, the salary the injured employee receives from the employer while out of work is wages subject to FICA even though the employee's injury is work-related.

*Example 3.* The facts are the same as in *Example 1* except that the local ordinance includes a rebuttable presumption that certain injuries, including any heart attack incurred by a firefighter or other law enforcement personnel is work-related. The presumption in the ordinance does not eliminate the requirement that the injury be work-related in order to entitle the injured worker to full salary. Therefore, the ordinance is a statute in the nature of a workers' compensation act, and the salary the injured employee receives pursuant to the ordinance is excluded from wages under section 3121(a)(2)(A).

\* \* \* \* \*

**PART 32—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE ACT OF DECEMBER 29, 1981 (PUB. L. 97–123)**

■ **Par 3.** The authority section for part 32 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 \* \* \*

■ **Par. 4.** Section 32.1 is amended by:

1. Revising paragraph (a) introductory text.

2. Revising paragraph (a)(1).

The revisions and additions are as follows:

\* \* \* \* \*

(a) General rule. The amount of any payment on or after January 1, 1982, made to, or on behalf of, an employee or any of his dependents on account of sickness or accident disability is not excluded from the term wages as defined in section 3121(a)(2)(A) unless such payment is—

(1) Received under a workmen's compensation law (as defined in

§ 31.3121(a)(2)–1(d)(3) for payments made on or after December 15, 2005), or  
\* \* \* \* \*

**Mark E. Matthews,**

*Deputy Commissioner of Services and Enforcement.*

Approved: December 1, 2005.

**Eric Solomon,**

*Acting Deputy Assistant of the Treasury (Tax Policy).*

[FR Doc. 05–23945 Filed 12–14–05; 8:45 am]

BILLING CODE 4830–01–U

**NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL**

**28 CFR Part 906**

[NCPPC 113]

**Outsourcing of Noncriminal Justice Administrative Functions**

**AGENCY:** National Crime Prevention and Privacy Compact Council.

**ACTION:** Final rule.

**SUMMARY:** The Compact Council, established pursuant to the National Crime Prevention and Privacy Compact Act of 1998 (Compact), is adopting, as a final rule, without change, an interim final rule which permits the outsourcing of noncriminal justice administrative functions involving access to criminal history record information (CHRI). Procedures established to permit outsourcing are required to conform with the Compact Council's interpretation of Articles IV and V of the Compact.

**DATES:** This rule is effective December 15, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna M. Uzzell, Compact Council Chairman, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308–5333, telephone number (850) 410–7100.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Compact, 42 U.S.C. 14616, establishes uniform standards and processes for the interstate and Federal-State exchange of criminal history records for noncriminal justice purposes. The Compact was approved by the Congress on October 9, 1998, (Pub. L. 105–251) and became effective on April 28, 1999, when ratified by the second state. Article VI of the Compact provides for a Compact Council that has the authority to promulgate rules and procedures governing the use of the Interstate Identification Index (III) System for noncriminal justice

purposes. On December 16, 2004, the Compact Council published in the **Federal Register**, 69 FR 75243, an interim final rule with request for comments. This rule permits a third party to perform noncriminal justice administrative functions relating to the processing of CHRI maintained in the III System, subject to appropriate controls, when acting as an agent for a governmental agency or other authorized recipient of CHRI. Published in a notice elsewhere in today's edition of the **Federal Register** is the Security and Management Control Outsourcing Standard which establishes the appropriate controls.

**II. Discussion of Comments on the Interim Final Rule**

The 60-day comment period for the interim final rule closed on February 14, 2005. Two comments were received from a state agency.

The first comment concerned section 906.2(b). The state agency questioned the clarity of what specifically was contemplated in the exceptions to the provision that contractors, agencies, or organizations shall not be permitted to have terminal access to the III System and suggested further explanation or examples of what situations would permit contractors to have direct terminal access to the III System. The Compact, at Article V (c), provides "Direct access to the National Identification Index by entities other than the FBI and State criminal history record repositories shall not be permitted for noncriminal justice purposes" and 42 U.S.C. 14614(b) provides that "Nothing in the Compact shall interfere in any manner with—(1) access, direct or otherwise, to records pursuant to—the various laws specified in that section) or (2) any direct access to Federal criminal history records authorized by law." Therefore, authorized agencies (*i.e.*, FBI, state repositories, and certain agencies performing the background checks authorized under 42 U.S.C. 14614(b)) require direct access to III in order to perform their authorized functions. Although these agencies may choose not to outsource these functions, the exception language in the rule was intended to not prohibit that option.

The second comment questioned whether the Outsourcing Rule has any affect on a specific provision of the Security Clearance Information Act (SCIA) (5 U.S.C. 9101) which authorizes a State criminal history record repository to require that fingerprints accompany a SCIA record check request if certain requirements are met. Pursuant to the SCIA, the six covered

federal agencies may have direct terminal access to the III to conduct record checks of individuals being considered for assignment or retention in a position with access to classified information, a critical or sensitive position, a position of public trust, etc. The SCIA also provides that "Such a request to a State criminal history record repository shall be accompanied by the fingerprints of the individual who is the subject of the request if required by State law and if the repository uses the fingerprints in an automated fingerprint identification system." Accordingly, the Outsourcing Rule has no impact on this SCIA provision nor does the rule affect the state law requiring fingerprints for use in conducting a state automated fingerprint identification system record check for such purposes.

The Compact Council did not believe that any changes to the rule were necessary based on the comments; therefore, the interim final rule is being adopted as final without change.

**List of Subjects in 28 CFR Part 906**

Administrative practice and procedure, Intergovernmental relations, Law Enforcement, Privacy.

**PART 906—OUTSOURCING OF NONCRIMINAL JUSTICE ADMINISTRATIVE FUNCTIONS**

Accordingly, the interim final rule adding part 906 which was published at 69 FR 75243 on December 16, 2004, is adopted as a final rule without change.

Dated: November 23, 2005.

**Donna M. Uzzell,**

*Compact Council Chairman.*

[FR Doc. 05–24055 Filed 12–14–05; 8:45 am]

BILLING CODE 4410–02–P

**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Parts 4022 and 4044**

**Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying