

National Conference of State Social Security Administrators (NCSSSA)
 Comments and Suggested Edits and Formatting Changes Recommended for the 2014 Edition of the
Federal-State Reference Guide (IRS Pub. 963)

LEGISLATIVE COMMITTEE DRAFT OF JULY 25, 2014

Submitted to the IRS and SSA on [INSERT DATE SENT TO IRS WHEN COMMENTS ARE FINALIZED]

Suggestion Number	Suggested edit or format change	Rationale (if necessary)	IRS's Response to NCSSSA 2013 Recommendations
	<u>Content Edits and Suggestions</u>		
1	<p><u>FOLLOW-UP TO LAST YEAR'S REQUEST BY NCSSSA:</u></p> <p>Given the response we received last year when we recommended reinstatement of the Public Employers' chapter, NCSSSA, recommends reinstating the summary language in Chapter 1 (see separate PDF attachment containing the suggested language).</p>	<p>We acknowledge the IRS's response last fall to NCSSSA's recommendations to reinstate the Public Employer's Chapter, so we are, instead, recommending reinstating the original Chapter 1 language (see attached PDF document for the text of the information we suggest be added back into the end of Chapter 1).</p> <p>The easier it is for public employers to identify their roles and responsibilities, the better it is for all parties, including the State Administrators, IRS officials, SSA officials, and public employers and employees.</p> <p>The underlying purpose of the <i>Federal-State Reference Guide</i> was to help all parties, especially the public employers and their legal and financial advisors, voluntarily comply with and understand all aspects of federal law related to FICA taxes, Social Security and Medicare benefits, voluntary (Section 218) Social Security and Medicare coverage requirements, and both mandatory Social Security (including public pension system</p>	

National Conference of State Social Security Administrators (NCSSSA)
 Comments and Suggested Edits and Formatting Changes Recommended for the 2014 Edition of the
Federal-State Reference Guide (IRS Pub. 963)

LEGISLATIVE COMMITTEE DRAFT OF JULY 25, 2014

Submitted to the IRS and SSA on [INSERT DATE SENT TO IRS WHEN COMMENTS ARE FINALIZED]

Suggestion Number	Suggested edit or format change	Rationale (if necessary)	IRS's Response to NCSSSA 2013 Recommendations
		<p>FICA replacement plans) and mandatory Medicare provisions.</p> <p>The suggested language for Chapter 1 will not add significantly to the size of Pub. 963, but will have the public employers important insight into their unique responsibilities, which are described elsewhere in the <i>Guide</i>.</p>	
4	<p><u>FOLLOW-UP TO LAST YEAR'S REQUEST BY NCSSSA:</u></p> <p>Add Form 8821 (Tax Information Authorization) to the "Publications, Forms and Other Resources" Chapter, including a link to the form on the IRS website. Provide an explanation within the State Social Security Administrator and Internal Revenue Service chapters on the restrictions imposed on the IRS by IRC §6103 and why it is valuable for the public employers to permit the IRS to communicate with their state's Social Security Administrator.</p>	<p>Address restrictions imposed on the IRS by IRC §6103 which prevent them from discussing taxpayer information about public employers with State Social Security Administrators.</p> <p>Tax Information Authorization has been a major issue for Kentucky, based upon specific organizational responsibilities and structures in working with the IRS. The more seamless the communication process, the more efficient identification of Wage/Tax issues and solutions. Assists the State, IRS, and SSA in understanding and separating real issues from processing and documentation problems.</p>	<p>We can expand briefly on this for this year; consider further for next year.</p>

National Conference of State Social Security Administrators (NCSSSA)
 Comments and Suggested Edits and Formatting Changes Recommended for the 2014 Edition of the
Federal-State Reference Guide (IRS Pub. 963)

LEGISLATIVE COMMITTEE DRAFT OF JULY 25, 2014

Submitted to the IRS and SSA on **[INSERT DATE SENT TO IRS WHEN COMMENTS ARE FINALIZED]**

Suggestion Number	Suggested edit or format change	Rationale (if necessary)	IRS's Response to NCSSSA 2013 Recommendations
6	<p><u>FOLLOW-UP TO LAST YEAR'S REQUEST BY NCSSSA:</u></p> <p>Provide section on Charter Schools, including any appropriate link to POMS sections (policy statement currently being developed by SSA/OISP).</p>	<p>We acknowledge IRS's response (shown in the column to the right) to the recommendation we submitted last fall. We feel strongly, however, that at least some mention of Charter schools would be helpful, even if all that can be said at this time is that it is under review by the IRS and SSA as to how they should be treated and that proper treatment of charter school employees is very specific according to each state's laws.</p> <p>Charter schools are expanding rapidly throughout the country and there is much confusion over which ones are governmental. Charter Schools is a recurring legislative proposal in many states that has with major Social Security ramifications. Clarification of this area would be valuable.</p>	<p>We constantly review the situation on charter schools, and are committed to publicizing any information about this issue we can. We have been advised by Counsel not to address charter schools in this publication (or in any of our materials). Unfortunately, there is very little we can say about it at this point. It remains legally complex and highly dependent on state law.</p>
7	<p><u>FOLLOW-UP TO LAST YEAR'S REQUEST BY NCSSSA:</u></p> <p>Add an appendix that contains the list of all appropriate legal citations.</p> <p>Acknowledging the IRS's response to NCSSSA's recommendation last fall (included in the far right column of this</p>	<p>Because the <i>Guide</i> is a reference tool, and not the definitive law, it is valuable to provide appropriate legal citations to applicable Social Security Act and Internal Revenue Code statutes as well as to IRS and SSA regulations.</p> <p>A Legal Citations Appendix is absolutely necessary, considering the complexity of Federal, State, and Local statutes and the need</p>	<p>Not sure what citations this is referring to – we cite numerous laws and regulations in the text, and in some situations, case law. Please provide examples.</p>

National Conference of State Social Security Administrators (NCSSSA)
 Comments and Suggested Edits and Formatting Changes Recommended for the 2014 Edition of the
Federal-State Reference Guide (IRS Pub. 963)

LEGISLATIVE COMMITTEE DRAFT OF JULY 25, 2014

Submitted to the IRS and SSA on [INSERT DATE SENT TO IRS WHEN COMMENTS ARE FINALIZED]

Suggestion Number	Suggested edit or format change	Rationale (if necessary)	IRS's Response to NCSSSA 2013 Recommendations
	<p>row), NCSSSA officials think links to, and citations of, all United State Code references (both Social Security Act and Internal Revenue Code) should be included. Also, Revenue Rulings and Treasury Regulations should be similarly cited.</p>	<p>for consistent, updated reference material by the user. As noted later in No. 15 Companion Volume, the State-specific information should further include, either here or later, State and Local Government-Specific Legal Citations and references.</p>	
8	<p><u>FOLLOW-UP TO LAST YEAR'S REQUEST BY NCSSSA:</u></p> <p>Restore maps of IRS areas, SSA regions, plus U.S. Circuit Court jurisdiction.</p> <p>NOTE: NCSSSA region maps are not as necessary as the above maps, which have legal implications for compliance, thus the map of the NCSSSA regions does not need to be included/reinstated. (New regions have been established since the maps were last included in the Guide, so if IRS and SSA wants to include them, NCSSSA will need to provide the updated map.)</p>	<p>The region, area, and circuit court maps are necessary so states can readily tell which other states are affected by SSA, IRS, or circuit court decisions that only impact certain portions of the U.S. The student exclusion situation which was only recently resolved by the U.S. Supreme Court (in the Mayo case) is a perfect example as to why those maps are important.</p> <p>Maps are crucial visual tools, which assist the user in understanding the geographical importance of State Social Security Administration across the nation. Accentuates that Federal SSA/IRS Regulations cannot be completely considered without understanding the State Statutory Layers.</p>	<p>Consider for next year. When we looked at this in 2002, we concluded they were of very limited value. Some of the graphics we used previously create some publishing and section 508 compliance problems. Also, because we now have directory information on our website, we do not think it necessary to include similar material here, especially considering how quickly it can change. We also believe the SSA site should be consulted for SSA regional information. Note that our several of our links to SSA go to maps or regional directories. As for court jurisdictions, we could restore this information (at least in text form), but because we do not address current or pending legal</p>

National Conference of State Social Security Administrators (NCSSSA)
 Comments and Suggested Edits and Formatting Changes Recommended for the 2014 Edition of the
Federal-State Reference Guide (IRS Pub. 963)

LEGISLATIVE COMMITTEE DRAFT OF JULY 25, 2014

Submitted to the IRS and SSA on [INSERT DATE SENT TO IRS WHEN COMMENTS ARE FINALIZED]

Suggestion Number	Suggested edit or format change	Rationale (if necessary)	IRS's Response to NCSSSA 2013 Recommendations
			decisions, it is not clear how this would be helpful. Publication 963 should not be relied on for information about these decisions.
9	<p><u>FOLLOW-UP TO LAST YEAR'S REQUEST BY NCSSSA:</u></p> <p>Create a "companion" volume to accompany Pub. 963 that includes state-specific information on all 52 states that are included as eligible for voluntary Social Security (and Medicare) coverage pursuant to Section 218 of the U.S. Social Security Act. The companion volume should include, among other things: copies of each state's Section 218 Agreement, a list of all Modifications (including the names of public employers/employee groups covered under each Modification), each state's enabling legislation (and any revisions that have occurred or occur in the future), pertinent state laws related to public pension plans in the state, results of the IRS's Section 218 Assessment Tool project, etc.</p>	<p>This is a longer-term effort that would be a great joint project among the SSA (policy and regional offices), the IRS, and NCSSSA. This is a project that would be appropriate for the NCSSSA Legislative Committee to work on with the IRS and SSA.</p> <p>A Companion Volume with accompanying State and Local Government-Specific Legal Citations and references are absolutely necessary and should be a monitoring duty for each State Social Security Administrator. This NCSSSA addition could further State Social Security Administrator inclusion efforts in Non-Participating States.</p>	<p>As valuable as such a companion volume would be, it is beyond our resources for FSLG to create it. Since the inception of FSLG in 2000, we have gathered information nationwide about 218 Agreements and modifications, and hope to eventually have them in an accessible archive or database, but at this point we do not have that information in a comprehensive or usable form.</p>

National Conference of State Social Security Administrators (NCSSSA)
 Comments and Suggested Edits and Formatting Changes Recommended for the 2014 Edition of the
Federal-State Reference Guide (IRS Pub. 963)

LEGISLATIVE COMMITTEE DRAFT OF JULY 25, 2014

Submitted to the IRS and SSA on **[INSERT DATE SENT TO IRS WHEN COMMENTS ARE FINALIZED]**

Suggestion Number	Suggested edit or format change	Rationale (if necessary)	IRS's Response to NCSSSA 2013 Recommendations
10	<p><u>FOLLOW-UP TO LAST YEAR'S REQUEST BY NCSSSA:</u></p> <p>More clearly highlight in Chapters 1 and 6 (Social Security and Public Retirement Systems) the distinction between a "FICA Replacement Plan" and a "qualified public retirement plan."</p> <p>It might help to change the title for Chapter 6 to "Social Security and FICA Replacement Plans" and the heading on page 6-1 for "Public Retirement Systems" to "FICA Replacement Plans" so the difference is made more apparent.</p>	<p>This is an area that causes much confusion and misinterpretation, so anything that provides clearer information about the distinction between the two types of "retirement plans" would be beneficial to ensure voluntary compliance with all aspects of the federal laws.</p>	<p>We think this is mentioned as much as it can be without becoming a distraction. We will review for this year to see whether it can be clearer in more places. Although we include the popular and intuitive term "FICA replacement plan" in the discussion, for the formal purposes we need to stick with the technical term of art as it appears in the regulations, "public retirement system."</p>
	<p><u>Formatting Suggestions</u></p>		
12	<p>Insert references and links to the Social Security Administration's main state and local government employers: http://www.ssa.gov/slge/sitemap.htm</p> <p>AND</p> <p>State Social Security Administrator's Responsibilities: https://secure.ssa.gov/apps10/poms.nsf/lx/1910001130.</p>	<p>The POMS links provide a number of additional details that explain the roles and responsibilities of the State Social Security Administrators.</p>	

National Conference of State Social Security Administrators (NCSSSA)
 Comments and Suggested Edits and Formatting Changes Recommended for the 2014 Edition of the
Federal-State Reference Guide (IRS Pub. 963)

LEGISLATIVE COMMITTEE DRAFT OF JULY 25, 2014

Submitted to the IRS and SSA on [INSERT DATE SENT TO IRS WHEN COMMENTS ARE FINALIZED]

Suggestion Number	Suggested edit or format change	Rationale (if necessary)	IRS's Response to NCSSSA 2013 Recommendations
13	<p>In the section discussing Name Changes and/or Dissolutions' information should also be communicated to the State Administrator as well as to SSA and the IRS. It should be mentioned in Chapter 9 where entities' agreements with State Administrators are mentioned.</p> <p>NCSSSA recommends adding the following language to Chapter 9:</p> <p>Public employers and their legal and financial advisors should advise the State Social Security Administrator of any changes in a government entity's legal status, such as name changes, dissolutions, or consolidations.</p> <p>See page 9-2 of the edited PDF copy of Pub. 963.</p>	<p>Because entities have written, contractual, agreements with the State, who in turn have Mods with SSA, Name Changes and legal dissolutions need to be communicated to the State Administrator in order to document for their records. There is already a process in place where the SSSA then communicates this to SSA, and it is forwarded to the IRS. While the IRS cannot officially make changes to their records, they are included in the process. Because these agreements were made many years ago, when these changes occur, they do not always remember to communicate to the State Administrator, only to the IRS, who cannot share it with us. Including it in the 963 is an extra reminder to notify all affected partners.</p>	
14	<p>Miscellaneous edits included in the PDF draft of Pub. 963 (can be viewed in the PDF using Adobe Acrobat Pro or using the Summary of Comments document provided in addition to this Word document):</p> <p>1 Page 1-6: Insert AFTER the discussion of the State Social Security Administrator's role AND BEFORE the</p>	<p>Any suggested edits and comments noted in the attached PDF draft of the 2014 edition of the Guide that need explanation are listed, above, in separate rows.</p> <p>The attached PDF document entitled "Summary of Comments on Microsoft Word – Pub963NCSSSA.pdf" shows each of the edits</p>	

National Conference of State Social Security Administrators (NCSSSA)
 Comments and Suggested Edits and Formatting Changes Recommended for the 2014 Edition of the
Federal-State Reference Guide (IRS Pub. 963)

LEGISLATIVE COMMITTEE DRAFT OF JULY 25, 2014

Submitted to the IRS and SSA on [INSERT DATE SENT TO IRS WHEN COMMENTS ARE FINALIZED]

Suggestion Number	Suggested edit or format change	Rationale (if necessary)	IRS's Response to NCSSSA 2013 Recommendations
	<p>heading "Where to Direct Questions" the highlighted text from page 1-8 of the original (1995 edition) of IRS Pub. 963 (text to be inserted is attached as a separate PDF document).</p> <p>2 Page 2-2: Insert the word "Political" BEFORE the word "Subdivision" in the heading that begins "Local Government and"</p> <p>3 Page 5-12: Reminder: Fill in 2015 amount for election official/ worker thresholds (see yellow highlighted text in the Summary of Comments PDF document). It is already identified as needing the amount filled in with a "place holder", i.e., \$1,XXX.</p> <p>4 Page 8-3: Add link to SS-8 form (see highlighted text and "sticky note" in PDF draft of 2014 Pub. 963).</p> <p>5 Page 9-1: See two insertion points and "sticky note" in the yellow highlighted sentence suggesting the following language:</p> <p>A detailed list of State Administrator responsibilities is available on the Social Security Administration's website at: https://secure.ssa.gov/apps10/poms.ns</p>	<p>listed in this row in the text of the IRS draft as mark-ups or comments ("sticky notes").</p>	

National Conference of State Social Security Administrators (NCSSSA)
 Comments and Suggested Edits and Formatting Changes Recommended for the 2014 Edition of the
Federal-State Reference Guide (IRS Pub. 963)

LEGISLATIVE COMMITTEE DRAFT OF JULY 25, 2014

Submitted to the IRS and SSA on [INSERT DATE SENT TO IRS WHEN COMMENTS ARE FINALIZED]

Suggestion Number	Suggested edit or format change	Rationale (if necessary)	IRS's Response to NCSSSA 2013 Recommendations
	<p>f/lnx/1910001130.</p> <p>Insert the word “basic” before “State Administrator:”</p> <p>6 Page 9-2: Add the following language to Chapter 9:</p> <p>Public employers and their legal and financial advisors should advise the State Social Security Administrator of any changes in a government entity's legal status, such as name changes, dissolutions, or consolidations.</p>		

DRAFT for NCSSSA Comments

National Conference of State Social Security Administrators (NCSSSA)
Comments and Suggested Edits and Formatting Changes Recommended for the 2014 Edition of the
Federal-State Reference Guide (IRS Pub. 963)

LEGISLATIVE COMMITTEE DRAFT OF JULY 25, 2014

Submitted to the IRS and SSA on [INSERT DATE SENT TO IRS WHEN COMMENTS ARE FINALIZED]

DRAFT for NCSSSA Comments