

SECTION XII--INTERPRETATIONS

ACCOUNTING INTERPRETATION NO. 11

Subject: Determination of Employee Versus Contracted Service Status

This interpretation is intended to clarify whether a service received and paid for should be classified as wages paid or a contracted service.

Numerous situations arise that call for a decision as to whether or not a person performing a service for the municipality is actually an employee of the municipality. Each of these instances are unique but a common approach can be applied in making that determination.

If the municipality simply pays someone an hourly wage to perform the service, that person is probably an employee of the municipality and the amount paid to them is wages which are subject to all applicable federal rules and regulations regarding federal income tax withholding, matching of social security, and the preparation of a Form W-2. If someone is paid a flat fee for performing a service for the municipality and that person supplies his or her own equipment and supplies, then that is probably a contracted service and not a wage. In that instance, a form 1099 should be prepared but no federal income tax or social security should be withheld.

One example would be the hiring of someone to mow the grass in the municipal parks. If the municipality hires someone to mow this grass and the municipality provides the mower, edge trimmer, gasoline for the equipment and so on and just pays the person \$7.00 per hour to perform this service, this person is a municipal employee. However, if the municipality hires someone to mow the grass and that person provides his or her own equipment and gasoline to operate the equipment, and the municipality pays this person \$50.00 per week to keep the grass trimmed, then that person is an independent contractor and this is a contracted service not subject to withholdings. Such payments would be reported to the IRS with a Form 1099 and not a Form W-2.

Another example would be janitorial services. If the municipality hires someone for \$7.00 per hour to come in and clean city hall with the municipality supplying the cleaning products, vacuum cleaner and so on, then that person is an employee subject to payroll withholdings and their earnings would be reported to the IRS with a Form W-2. However, if the municipality pays someone \$100.00 per month to clean city hall and that person provides all their own equipment and supplies to accomplish the cleaning, then that person is an independent contractor subject to no withholdings and the amount paid to them would be reported to the IRS with a Form 1099.