

Avoid Tax Consequences (ATaC)



March 5, 2013

The Honorable Diane Black
Chair, Education and Family Benefits Working Group
U.S. House of Representatives
1531 Longworth House Office Building
Washington, DC 20515

The Honorable Danny K. Davis
Vice Chair, Education and Family Benefits Working Group
U.S. House of Representatives
2159 Rayburn House Office Building
Washington, D.C. 20515

RE: Voluntary Medicare Tax Opt-in for State and Local Government Employees

Dear Chairwoman Black and Vice Chair Davis:

We are co-owners of a business that specializes in professional services for state and local government (public) employers and their legal and financial advisors, particularly related to compliance with federal employment tax laws, Social Security and Medicare coverage and benefits, and public pension system requirements. As a result, we are familiar with the myriad of laws that impact state and local government employees in unique and different ways from their private sector counterparts, due to the state sovereignty inherent in the U.S. Constitution. One of the most immediate areas of concern relates to Medicare-exempt government employees, i.e., anyone hired on or before March 31, 1986, who has been in continuous employment with their public employer and are not covered by a Section 218 Agreement.

We fully support the proposal to change federal law to permit the Voluntary Medicare Tax Opt-in Provision for Medicare-exempt government employees. We have found that approximately 20 percent (140,000 employees) of Medicare-exempt government employees nationwide cannot qualify for Medicare benefits under their own benefit record or that of a spouse or ex-spouse. When referenda elections are conducted by State Social Security Administrators in majority vote states, it is not uncommon for Medicare-only coverage referenda to fail to pass, because the other 80 percent of those voting find they already qualify for full Medicare benefits. The remaining 20 percent are left without that health care safety net, even though they are willing to pay into the Medicare Trust Fund to earn the full 40 quarters of credit in order to obtain the Medicare Part A benefit when they reach age 65.

Given the financial condition of the Medicare Trust Fund this proposed change to federal law could also infuse much-needed money into that fund (approximately \$1.2 billion over the course of 10 years¹), while enabling otherwise Medicare-exempt government employees to pay into the fund in order to obtain a benefit they will otherwise be denied. The majority of those public employees who are impacted by the current legal framework are police officers, firefighters, and school district employees in every state in the country.

This proposed change allows individual employees currently excluded from Medicare-only coverage to voluntarily opt-in via a payroll process and allows for the same tax treatment as those who are self-employed while still ensuring they are clearly treated as employees for all other purposes. It allows maximum flexibility to state and local employers, as the proposal would require the employee to contribute both shares of the Medicare tax, thus eliminating any potential strain to already stringent state and local government budgets. Furthermore, the proposal protects the Medicare Trust Fund by providing additional revenues and does not change the eligibility requirements (number of credits) for coverage.

ATaC strongly urges the passage of the Voluntary Medicare Tax Opt-in Provision for state and local government employees. If you have any questions or need anything further from us, please feel free to contact us (our contact information is listed below).

Thank you for considering this important topic.

Sincerely,

Maryann Motza, PhD, Co-Owner
ATaC, LLC

[Redacted contact information]

Dean J. Conder, M.S., Co-Owner
ATaC, LLC

[Redacted contact information]

¹ The Centers for Medicare and Medicaid Services estimates that 700,000 state and local government employees are not covered by Medicare. Based on NCSSSA data, 20% of those 700,000 want coverage = 140,000. U.S. Census data shows an average yearly salary of \$43,812 for state and local government employees with the 2.9% (employer and employee) Medicare tax = \$177,875,600 for the first year with a 9.3% attrition rate (current state of Colorado rate) for next 10 years equals \$1,192,020,900.