

## Understanding Taxes

Here's a brief description of three kinds of tax that your chapter has to understand. More information is available from the [IRS](#) or you can contact the Offices of the Grand Chapter with questions.

### Social Security Tax (FICA)

Wages, for purposes of FICA, means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash, such as meals or lodging. Subject to the following exceptions, chapter corporations are required by law to pay Social Security (or FICA) taxes with respect to all wages paid employees, including non-student employees performing domestic chores (housemothers, house boys, maids, cooks, janitors, handymen, etc.). Wages paid to students performing domestic service who are enrolled and regularly attending classes are exempt from FICA taxes. Also, wages paid by chapter corporations exempt from income tax to employees who receive less than \$100 in wages during the calendar year are exempt. Finally, meals and lodging furnished by a chapter corporation, the value of which is excludable from gross income by an employee under Section 119 of the Internal Revenue Code, are not wages for purposes of FICA. Whether Section 119 applies to meals and lodging provided to a certain employee depends on whether they are furnished for the convenience of the chapter and on other facts and circumstances. Chapters should, therefore, consult their attorney to determine the application of this exemption to the current year, as well as about the possibility of refunds for FICA taxes that may have been paid in recent years with respect to meals and lodging that are not FICA wages under this rule. The tax must be paid regardless of the age of the employee, even for those already collecting Social Security benefits.

The appropriate amount of FICA tax is deducted from the employee's salary and, in addition, the chapter must pay a FICA tax on the employee's wages. For calendar year 1990, the FICA tax rates will be 7.65% on employees and on employers, for a total of 15.30% of wages taxable under FICA. The chapter corporation is required by law to deduct the amount of the tax on an employee's wages from his pay, even if the employee objects to the chapter's payment of the tax and reporting of the earnings to the IRS. The chapter corporation and its officers and employees who are charged with the duty to collect the tax may be held civilly and criminally liable for willfully failing to collect and pay the tax or willfully attempting to evade or defeat the payment of the tax. Failure to file any tax return by the date it is due, unless due to reasonable cause and not willful neglect, will result in liability not only for the amount owed, but also for a penalty for each month or fraction thereof during which the failure continues. There is no limit on the time during which the IRS may assess unpaid FICA taxes if no return was filed for the period during which liability for those taxes arose.

### Income Tax

It is not required or necessary to withhold federal income taxes from cooks, maids, housemothers, houseboys, janitors, and waiters or any other persons employed in domestic service, but chapter treasurers, house managers, stewards and other officers are not exempt from withholding and federal income taxes must be withheld.

Every chapter required to withhold income tax from wages or who is liable for Social Security taxes must file a quarterly return on Form 941, EMPLOYER'S QUARTERLY FEDERAL TAX RETURN. This form and complete information on how to prepare it may be obtained from the Offices of the Grand Chapter.

### Federal Unemployment Taxes (FUTA)

A chapter corporation will be considered to be an "employer" required to pay tax under the Federal Unemployment Tax Act ("FUTA") with respect to domestic service employment in any calendar year if it pays domestic employees as a group \$1,000 or more in cash in any calendar quarter during that calendar year or the preceding calendar year. If that test is met, it will be subject to FUTA with respect to all "wages" (generally defined in a manner similar to the FICA definition) paid domestic service employees during that year. Unlike FICA, FUTA does not exempt wages paid to students performing domestic service. Like FICA, however, FUTA does exempt from "wages" meals and lodging to the extent the value of such is excludable from gross income under Section 119 of the Internal Revenue Code. Again, as with FICA, chapters should consult their attorney about this exemption. To illustrate the applicability of FUTA to domestic service employment, assume a chapter corporation pays \$800 in cash for domestic services in each quarter during 1990 and 1991, except for the quarter ended December 31, 1990, when it paid \$1,000 in cash for such domestic services. The chapter corporation will be liable for FUTA tax on all wages paid for domestic service during 1990, including wages paid in the three quarters during which less than \$1,000 was paid for such service. Furthermore, all wages paid for domestic service in 1991 would also be subject to FUTA even though less than \$1,000 was paid in each 1990 quarter, because \$1,000 was paid in a quarter during the preceding calendar year for domestic service.

A chapter corporation may also be considered to be an "employer" required to pay FUTA tax with respect to employment other than domestic service employment if, during either the current or preceding calendar year, (a) it employs at least one employee (not counting domestic employees) during some portion of 20 calendar weeks or (b) it pays "wages" for services other than domestic services of \$1,500 or more during any calendar quarter in the current or preceding calendar year.

Chapter corporations that are "employers" need not pay FUTA tax with respect to wages paid to any employee for services performed in a quarter in which that employee did not earn at least \$50, provided that the chapter corporation is exempt from income taxes. Any worker not earning at least \$50 in any quarter is not required to

be counted as an "employee" during that quarter for purposes of determining whether the 20-week requirement for being an "employer" is met. Furthermore, that part of wages paid any employee in excess of \$7,000 in any given year is not subject to tax under FUTA.

Any chapter corporation that pays wages during 1991 subject to FUTA taxes must file Form 940 on or before January 31, 1992. The instructions on the Form specify where it should be filed. The chapter corporation must enclose payment for the tax due with the Form 940. Few chapter corporations will be required to make deposits of FUTA taxes. Those that are required to make these deposits should obtain a copy of Circular E for more information, which is available from any IRS office without charge.

Additionally, each state has enacted an unemployment tax statute. These statutes will impose separate reporting obligations, and chapters should check with the Department of Revenue or the Employment Security Division of their state or with their accountant or attorney to obtain the required state forms. Most, if not all, unemployment taxes paid to a state will be a credit against the federal FUTA taxes.