

April 7, 2015, February 14, 2023

I found the answer on page 86 of the IRS Publication 963 - Federal-State Reference Guide.

The extra position is not subject to Social Security (or Obra). Note: FRRS is not covered by a Section 218 agreement.

A good local example to the first Example below is: Teacher employed by Erving is in the MTRS. They also are an elected Assessor in Erving and paid less than \$5k annually, and therefore not eligible to be a member in FRRS (also not able to add the Assessor's position to their MTRS membership). Result is that the elected position is excluded from mandatory Soc Sec and Obra because they are a "qualified participant" in MTRS.

Dale

Here is the link to IRS Publication 963:

<http://www.irs.gov/pub/irs-pdf/p963.pdf>

And here is the exact page from the publication:

Individuals Employed in More Than One Position

If an employee is not covered by a Section 218 Agreement, but is a member of a retirement system with respect to one full-time position, the employee is generally treated as a member of a retirement system with respect to any other position with the same employer.

Example: An individual is employed full-time by a county and is a qualified participant in its retirement plan with regard to that employment. In addition to this full-time employment, the individual is employed part-time in another position with the same county. The part-time position is not covered by the county retirement plan. Nevertheless, if the individual is a qualified participant in the retirement plan with respect to the full-time position, the part-time position is excluded from mandatory social security coverage. See Regulation 31.3121(b)(7)-2(c)(2).

This rule does not apply to employment by two different employers.

Example. An individual is employed full-time by a state and is a member of its retirement plan, and is also employed part-time by a city located in the state, but does not participate in the city's retirement plan. The services of the individual for the city are not excluded from mandatory social security coverage, because the determination of whether services constitute employment for such purposes is made separately with respect to each political subdivision for which services are performed. See Reg. 31.3121(b)(7)-2(c)(2).

Whether an employee is a part-time, seasonal or temporary employee is generally determined on the basis of service in each position in which allocations or benefits were earned. This determination generally does not take into account service in other positions with the same or different public employers. However, all of an employee's service in other positions with the same or different employers may be taken into account for purposes of determining whether an employee is a part-time, seasonal or temporary employee with respect to benefits under the retirement system provided that:

- The employee's service in the other positions is or was covered by the same retirement system;

Massachusetts Deferred Compensation SMART Plan

Plan Sponsor's OBRA Reference Guide

For contribution details, payroll location inquiries and procedural questions, please call the SMART Plan Service Center voice response system at (800) 695-4952. You may voice your request for "Web site support," "Plan questions," "participant information" or "something else" and your call will be transferred to the appropriate representative. For OBRA Mandatory Participant Enrollment Forms, please go to www.mass-smart.com > Participate > OBRA or call the SMART Plan Service Center at (877) 457-1900, option 2.

Exhibit III – Section 218 Agreements

The following list of employers has entered into a Section 218 agreement:

The original Section Agreement to extend social security coverage was executed between the Commonwealth and the Federal Security Administration in 1952. The original entities covered by the Agreement were:

- Greenfield / Montague Transportation Area
- Massachusetts Market Authority
- Mystic River Bridge Authority
- Nashoba Associated Boards of Health

Thereafter several modifications (amendments) extending coverage were approved

Modification #1 (1954): Massachusetts Turnpike Authority & Boston Arena Authority

Modification #2 (1968): Terminated the Turnpike's coverage

Modification #3 (1971): Massachusetts Health & Educational Facilities Authority

Modification #4 (1978): Massachusetts Board of Bar Overseers

Modification #5 (1987): Springfield Parking Authority

Modification #6 (1987): Pioneer Valley Transit Authority

Modification #7 (1989): North East Solid Waste Committee

Modification #8 (1999): Greater Lawrence Sanitary District (Medicare coverage only)

Modification #9 (1999): Montachusett Regional Planning Board (Medicare coverage only)

Modification #10 (2003): Southeastern Regional Planning & Economic Development District (Medicare coverage only)

Modification #11 (2003): Pioneer Valley Planning Commission (Medicare coverage only)