

# FICA Exemption Policy

## **Policy:**

Any payment on account of sickness made by an employer to an employee after the expiration of six calendar months following the last calendar month in which the employee worked will not be considered wages subject to FICA taxes.

## **Procedures:**

The Payroll Office will "turn off" the FICA deduction for an employee who is on sick leave for more than six months after the last month worked. The payments not subject to FICA taxes after six months include any payment made "on account of" sickness. These payments include sick leave pay and may include other payments (such as annual or compensatory leave) for leave to extend income received by the employee when the employee's sick leave balance is exhausted. The use of these additional leave balances is "on account of" sickness, not due to vacation, etc. The 6-month sick leave period must be continuous, otherwise, the start date for beginning the documentation of the six months period re-sets each time the employee returns to work.

If an employee receives "leave sharing" after the 6-month sick leave period, this pay would also qualify for the FICA exemption.

If an employee decides to retire at the end of the 6-month period, all leave balances paid-off are subject to FICA taxes. The FICA exemption mentioned above is effective only when sick leave is being extended for current employees.

## **References**

1. Memorandum from Evelyn Steele, State Payroll/Benefits Manager, dated 7/13/94; subject "Withholding of FICA Tax on Sick Pay".
2. Phone call to David Von Moll, State Payroll Manager, March 1999. He said that in his opinion, the use of annual or compensatory leave balances to extend pay after an employee's sick leave is exhausted should qualify for the "after 6-