

FOR IMMEDIATE RELEASE

JANUARY 13, 1975

Office of the White House Press Secretary

THE WHITE HOUSEEXECUTIVE ORDER

WITHHOLDING OF CITY INCOME OR EMPLOYMENT
TAXES BY FEDERAL AGENCIES

By virtue of the authority vested in me by section 5520 of title 5 of the United States Code (as added by the first section of the act of July 10, 1974, 88 Stat. 294), section 301 of title 3 of the United States Code, and as President of the United States, I hereby prescribe the following regulations governing agreements entered into by the Secretary of the Treasury and any city, pursuant to the provisions of section 5520 of title 5 of the United States Code, relative to the withholding of city income or employment taxes from the compensation of employees of the United States:

Section 1. As used in this order or in agreements:

(a) the term "agency" means (1) an executive agency as defined in section 105 of title 5 of the United States Code, (2) the judicial branch, and (3) the United States Postal Service;

(b) the term "Armed Forces" means all regular and reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard,

(c) the term "employee" as applied to employees of an agency includes officers and means individuals (1) appointed by a Federal officer or employee acting in his official capacity, (2) engaged in the performance of a Federal function under authority of law or an executive act, and (3) subject to the supervision of a Federal officer or employee in the performance of the duties of his position. The term does not include retired personnel, pensioners, annuitants or similar beneficiaries of the Federal Government who are not performing active service, or persons receiving remuneration for services on a contract-fee basis;

(d) the term "city" means a city which is duly incorporated under the laws of a State, and, on the date of the agreement with the Secretary of the Treasury, has within its political boundaries 500 or more employees who are regularly employed by agencies of the Federal Government,

(e) the term "city income or employment taxes" means any form of tax whose collection is provided in accordance with an ordinance of a city by imposing on employers generally the duty of withholding sums from the compensation of employees and making returns

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of the sums to the city. This is regardless of whether the tax is described as an income, wage, payroll, earnings, occupational license tax, or otherwise;

(f) the term "regular place of Federal employment" means the official duty station where an employee regularly reports for duty to perform his services. It is irrespective of his residence, except when such services are performed in a travel or temporary duty status, in which case his "regular place of Federal employment" will be the official duty station to which he will normally be expected to proceed for the purpose of performing further services in connection with his Federal employment on ending travel or temporary duty status;

(g) the term "compensation" as applied to employees of an agency shall mean "wages" as defined in section 3401(a) of the Internal Revenue Code of 1954, and regulations issued thereunder.

Sec. 2. Each agreement shall be consistent with the provisions of section 5520 of title 5 of the United States Code, and the rules and regulations (including this executive order) issued there. Each shall be subject to any amendments of any such provisions, including amendments occurring after the effective date of any such agreement.

Sec. 3. Each agreement (a) shall specify when the withholding of the tax shall begin, (b) shall provide that the head of each agency may withhold a city tax following the signing of a withholding certificate by the employee, (c) shall provide that the amount withheld shall at a minimum produce approximately the tax withheld by the city ordinance, and (d) shall provide that the withholding, the filing of returns, and the payment of the withheld taxes to the city shall conform to the usual fiscal practices of agencies of the United States. No agreement shall require the collection by agencies of the United States of delinquent tax liabilities of Federal employees.

Sec. 4. The head of each agency shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold taxes, file required returns, and direct the payment of withheld taxes. This shall be in accordance with (a) any rules or regulations prescribed by the Secretary of the Treasury, and (b) the terms of the agreements entered into between the Secretary and the cities.

Sec. 5. Nothing in this order, or in rules or regulations issued here, or in any agreement entered into after this, shall be considered an agreement by the United States to the application of an ordinance which (a) imposes more burdensome requirements on the United States

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than it imposes on other employers, or (b) subjects the United States or any of its officers or employees to any penalty or liability.

Sec. 6. I hereby delegate to the Secretary of the Treasury authority to prescribe such rules and regulations consistent and necessary to further effectuate the provisions of section 5520 of title 5 of the United States Code, and this order.

GERALD R. FORD

THE WHITE HOUSE,
JANUARY 13, 1975

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