

FOR IMMEDIATE RELEASE

JUNE 12, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE 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 Public Law 93-340, 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 revoke Executive Order No. 11833 of January 13, 1975, and prescribe the following regulations to govern agreements between the Secretary of the Treasury and any city for the withholding of city income or employment taxes from the compensation of Federal employees:

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" includes all regular and reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(c) The term "employees" as applied to employees of an agency includes officers and means individuals who are (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 has within its political boundaries, on the date of the agreement, 500 or more persons who are regularly employed by all agencies of the Federal Government.

(e) The term "city income or employment taxes" means any form of tax for which, under a city ordinance, collection is provided by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the city. Whether the tax is described as an income, wage, payroll, earnings, occupational license, or otherwise, is immaterial.

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(f) The term "regular place of Federal employment" means the official duty station, or other place, where an employee actually performs his services, irrespective of his residence. If the employee's services are performed in a travel or temporary duty status, his "regular place of Federal employment" will be the official duty station, or other place, to which he is expected to proceed when his travel or temporary duty status ends.

(g) The term "compensation" as applied to employees of an agency means "wages" as defined in Section 3401(a) of the Internal Revenue Code of 1954 and regulations thereunder.

Sec. 2. Each agreement shall be (a) 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 thereunder, and (b) subject to amendment of any such provisions, including amendments made after the effective date of the agreement.

Sec. 3. Each agreement shall provide (a) when tax withholding shall begin, (b) that the head of an agency may rely on an employee's withholding certificate in withholding city taxes, (c) that the method for calculating the amount to be withheld shall produce approximately the tax required to be withheld by the city ordinance, and (d) that procedures for the withholding, filing of returns, and payment of the withheld taxes to the city shall conform to the usual fiscal practices of agencies. No agreement shall require the collection by an agency of delinquent tax liabilities of an employee.

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 the taxes withheld, in accordance with this Order, any rules or regulations prescribed by the Secretary of the Treasury, and the applicable agreement.

Sec. 5. Nothing in this Order, in rules or regulations issued hereunder, or in any agreement pursuant thereto, shall be considered an agreement by the United States to the application of a city ordinance which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability.

Sec. 6. I hereby delegate to the Secretary of the Treasury authority to prescribe additional rules and regulations to implement Section 5520 of Title 5 of the United States Code and this Order.

GERALD R. FORD

THE WHITE HOUSE,
JUNE 12, 1975

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