



NUMBER: 386
SUBJECT: SOCIAL SECURITY 218 ELECTION
EFFECTIVE DATE: OCTOBER 1, 2011
EFFECTIVE DATE OF LAST REVISION:
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386.1 — PURPOSE

This policy is to establish the administration of Social Security taxes, Social Security Replacement funds, and benefits for employees of Bridgerland Applied Technology College (BATC): A Utah College of Applied Technology (UCAT) Campus pursuant to the results of the UCAT Social Security 218 Election concluded September 6, 2011.

386.2 — REFERENCES

BATC Employee Benefits Policy and Procedures

386.3 — DEFINITIONS

386.3.1 — Tax Shelter Program

Under regulations of the Internal Revenue Service, educational institutions may establish salary-or-annuity option (tax sheltered annuity) programs, in addition to their retirement plans. Under these programs, BATC personnel may, through a properly drawn salary reduction agreement, divert part of their compensation on a tax-free basis to the purchase of supplemental annuity benefits.

386.3.2 — Salary Reduction Agreement

A Salary Reduction Agreement is a binding contract, as required by Treasury regulations, between BATC and the employee to accept a reduction in salary payments, or to forego receipt of an increase in salary. The unpaid portion of the employee's compensation, described in the agreement, is then used to purchase supplemental annuity benefits which are tax sheltered, i.e., federal and state taxes on the premiums remitted and on the investment earnings credited to them are deferred until the employee receives them in the form of retirement or annuity benefits. At that time, the payments received are taxed as ordinary income in the year (or years) in which they are received.

386.4 — POLICY

386.4.1 — Effective Date

Eligible employees of UCAT voted in a UCAT-wide referendum to *not* make an affirmative election for participation in the Federal Social Security System under Internal Revenue Service regulations. (A copy of the UCAT Certificate of Referendum is attached). The voting deadline was September 6, 2011. As a result of that referendum vote, beginning October 1, 2011, *eligible* employees of BATC will no longer participate in the Social Security System.

386.4.2 — Eligibility

The employees who will *not* participate in the Social Security benefit are exclusively those who are *eligible* for employer paid retirement benefits. Employees who are not eligible for retirement benefits will continue to participate in the Social Security System.



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386.4.3 — Medicare Coverage

Participation in the Medicare system is not changed by this referendum vote. Accordingly, all employees of BATC will continue participation in Medicare.

386.4.4 — Refund

In accordance with the Social Security referendum, BATC will seek a refund for the overpayment of FICA taxes going back the maximum time period allowed by the IRS. IRS has provided UCAT with direction indicating the statute of limitations would allow a refund request for calendar years 2008, 2009, 2010, and 2011, as long as the request for refund (941-X forms) are submitted by April 15, 2012.

The refunded employer contributions will be deposited into the individual employee's deferred compensation retirement account as a non-elective contribution up to IRS approved limits. Refund amounts in excess of IRS deferred compensation plan limits will be paid out as taxable compensation.

Eligible employees who request a refund of the employee portion of contributions will receive the refunded overpayment as an after-tax payment through BATC's accounts payable system. The employee share of the overpayment is the property of the employee and BATC is only acting as the fiscal agent in requesting the refund on behalf of the eligible employees. BATC will obtain a signed authorization form from each eligible employee, to be retained in the employees' personnel file, prior to requesting the refund from IRS.

In accordance with IRS rules, employees may elect to deposit an amount equal to the employee share of their refund into their deferred compensation retirement account up to the IRS limits.

Former employees of BATC who are eligible for a refund will have the employer share of their refund paid to them as taxable compensation and may choose to have that compensation deposited into their deferred compensation retirement account as an employee elective contribution, up to IRS limits. The employee share will be refunded directly to the employee as a refund of amounts previously withheld from their pay checks.

As a general rule, refunds, plus any interest remitted to BATC by IRS, of both the employer and employee share will be processed by BATC as quickly as is reasonably possible following receipt of the refund from IRS. Any exceptions to this general rule must be approved by the BATC Campus President or Vice President for Finance before being processed.

386.4.5 — Future Contributions

For eligible employees who are not participating in the Social Security System, BATC will maintain the same percentage employer contribution (currently 6.2%). However, in lieu of paying this amount in FICA taxes, these funds will be directed to the employee's individual deferred compensation account. Employees have the option to choose if they wish to contribute some, or all, of their employee portion into this account.

386.4.6 — Duration

This policy will remain in effect unless the portion of the compensation funding BATC receives from State appropriated money is reduced or eliminated.



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386.5 — PROCEDURE

386.5.1 — FICA Withholdings

Under Social Security, the employee is required to pay FICA taxes of a percentage of their gross wages, and the employer also pays a matching amount. Prior to 2011, the Social Security portion of this percentage was 6.2% from the employee with a matching 6.2 % from the employer. This 6.2% tax is referred to by the Federal government as the OASDI tax or Old Age, Survivors, and Disability Insurance tax. The employee and employer both pay an additional 1.45% tax to Medicare. These funds are remitted regularly to the IRS for those BATC employees who are participating in the Social Security System.

386.5.1.1 — For eligible employees who are not participating in the Social Security System, BATC will maintain the same percentage employer contribution (currently 6.2%). However, in lieu of paying this amount in FICA taxes, these funds will be directed to the employee's individual deferred compensation retirement account. Employees have the option to choose if they wish to contribute some, or all, of their employee portion into this account.

386.5.1.2 — The 1.45% Medicare taxes paid by the employee and employer will continue to be paid to the IRS for all employees.

386.5.1.3 — The contributions to an employee's deferred compensation retirement account (as a result of not participating in Social Security) will be *in addition to* the amount paid into an eligible employee's employer paid retirement plan as defined in the Retirement Programs Policy.

386.5.2 — Approved Retirement Accounts

The designated contributions from the employer will be directed into the individual's deferred compensation account. Only deferred compensation plans approved by BATC Administration will be used for this purpose.

386.5.2.1 — Contribution Limits. The annual maximum contribution amount allowable, for both employee and employer, is governed by applicable provisions of the Internal Revenue Code, and may vary from year to year. Information regarding these amounts is available from the Controller's Office.

386.5.2.2 — Additional Elective Deferrals. Employees are permitted to make additional elective contributions into their deferred compensation retirement accounts by completing a Salary Reduction Agreement. Employees may choose their account options from the approved vendors and accounts offered by BATC.