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## Technical Bulletins: Payment of Social Security Taxes on Sick Leave Compensation

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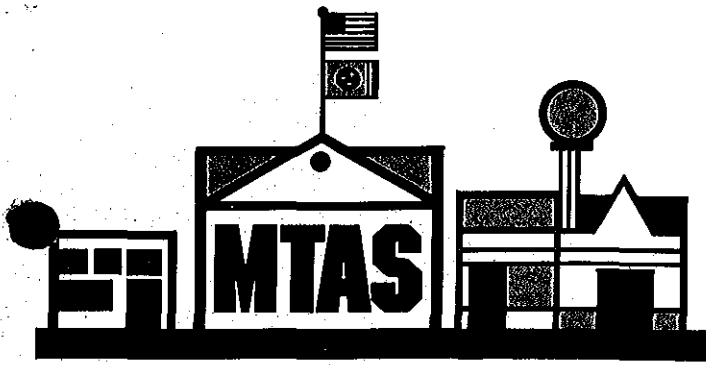
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# TECHNICAL BULLETIN

MUNICIPAL TECHNICAL ADVISORY SERVICE  
THE UNIVERSITY OF TENNESSEE  
IN COOPERATION WITH THE TENNESSEE MUNICIPAL LEAGUE

May 3, 1982

## PAYMENT OF SOCIAL SECURITY TAXES ON SICK LEAVE COMPENSATION

By Jim Leuty and Mike Pentecost  
MTAS Finance and Accounting Consultants

On December 29, 1981, the United States Congress enacted Public Law 97-123 which provided that payments made on account of sickness or disability caused by accident, with some exceptions, were taxable wages for social security purposes effective January 1, 1982. Prior to January 1, 1982, payments by state or local governments to employees absent from work because of sickness or disability caused by accident were excluded as social security wages, provided the employer had an approved sick pay plan and legally exercised its authority to pay "on account of sickness."

Effective January 1, 1982, payments made by a state or local government employer (or by a third party, e.g., an insurance company) to or on behalf of an employee as sick pay are generally taxable wages for the first six months after the last month the employee worked. This is true regardless of any sick pay plan in force.

Because of the social security contract with the state Old Age and Survivors Insurance Agency, local government employers are held responsible for withholding, paying, and reporting social security contributions of employees who are paid directly or indirectly by a third party. Arrangements with the third party should be made that would preclude erroneous payments or reporting under social security procedures.

Payments made under workers' compensation laws continue to be treated as non-taxable wages for social security purposes. Supplements to workers' compensation payments made to an employee, however, are considered taxable wages.

Payments for sick leave made to a local government employee more than six consecutive calendar months after the last month in which the employee worked continue to be excluded from social security wages, provided there is authority for sick pay and the payment has been made. Such six-month period may have begun prior to January 1, 1982.

Further information may be obtained from a letter sent to all cities by Mary Smith, State OASI Agency, dated February, 1982, or by calling her at 615/741-7902.

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