

# FSLG Compliance Self-Assessment

## Introduction

This FSLG Compliance Self-Assessment Tool is a resource designed by the IRS office of Federal, State and Local Governments (FSLG) for voluntary use by state and local government entities to conduct a self-assessment of their level of compliance with Federal tax requirements.

Public employers have unique legal requirements for compliance with federal tax and social security laws. These employers need to be aware of the rules that apply to them and their workers (both employees and independent contractors), especially those related to federal income, social security, and Medicare taxes and public retirement system obligations.

The self-assessment tool is designed to help public employers identify areas that indicate potential compliance issues. It is intended to be completed by the persons responsible for withholding and paying employment taxes in the organization.

At the beginning of each section, there is a brief description of the basic legal requirements that apply to public employers for that category. In most cases, a brief description of the law is provided with links to IRS publications or other material that will provide more complete information on the topic.

**Note:** This self-assessment tool is intended as a general guide to the most common tax issues that public employers may encounter, and to direct those entities to additional information as necessary. It is not intended to provide legal advice. It does not cover every question that may be encountered. The tool is provided for general information only and should not be relied upon as legal advice or a determination by the IRS with respect to a particular tax situation. The sources cited should be reviewed for complete information.

## Common Errors

FSLG conducts two types of activities to measure compliance with tax laws; compliance checks and examinations. An examination is the systematic inspection of the books and records of a taxpayer for the purpose of making a determination of the correct tax liability. A compliance check is a contact with the taxpayer that involves a review of filed information and tax returns of the entity. It is less burdensome and can generally be accomplished in one or two contacts with the taxpayer. A compliance check serves as an opportunity to educate the taxpayer and encourage compliance with regard to employment tax law and filing requirements.

From past compliance checks and examinations of public employers conducted by FSLG, a number of common errors have been identified. Some of these are listed below.

- Totals shown on Forms 941 or Form 944 do not reconcile with totals on Forms W-2 and W-3, or between these forms and the accounting records.
- Forms W-9 and W-4 are not being used or are not being updated when necessary.
- Failure to backup withhold on payments to vendors when required.
- Failure to correctly complete or file Forms 1099.
- Failure to apply accountable plan rules to reimbursements and allowances.
- Incorrect or missing employment tax deposits.
- Failure to follow electronic filing requirements.
- Treatment of certain groups of workers as independent contractors, rather than as employees.
- Failure to pay and withhold Medicare-only tax on rehired annuitants.
- Failure to include taxable noncash benefits in employee wages.
- Failure to correctly apply withholding rules to election workers and public officials.

## For Assistance While Completing the Form:

The following federal tax information is accessible from the FSLG website at [www.irs.gov/govt/fslg](http://www.irs.gov/govt/fslg).

- [FSLG Toolkit](#)
- [Publication 15, Employers Tax Guide](#)
- [Publication 15-A, Employer's Supplemental Tax Guide](#)
- [Publication 15-B, Employer's Guide to Fringe Benefits](#)
- [Publication 963, Federal-State Reference Guide](#)
- [Publication 1779, Independent Contractor or Employee](#)
- [Publication 5138, Quick Reference Guide for Public Employers](#)
- [Publication 5137, Fringe Benefit Guide](#)
- [Retirement Plans for Government Employer \(IRS FSLG\)](#)
- [Governmental Plans Information \(IRS Employee Plans\)](#)

General social security information is available at the Social Security Administration [website](http://www.ssa.gov) and more specific information pertinent to government employers and employees is available at: <http://www.ssa.gov/slge/>.

The [National Conference of State Social Security Administrators](#) (NCSSA) website includes contact information for the state [Social Security Administrators](#), who are responsible for maintaining and administering the states' Section 218 Agreements and Modifications with the Social Security Administration.

**For Assistance and Further Information After Completing the Form:**

An FSLG Specialist can help you interpret the results of the self-assessment and ensure that you know what, if any, steps you need to take to be fully compliant with all applicable federal tax laws, rules and regulations. The names and contact information for FSLG staff are available at [local FSLG Contact Information](#).

The FSLG Specialist may recommend that you contact your State Social Security Administrator for clarifications and information about a Section 218 Agreement or Modification, how to obtain Medicare-only coverage for Medicare-exempt employees or other similar information. Each state has unique laws governing voluntary social security and Medicare coverage. Agreements for state and local governments can be obtained through the NCSSSA. You may also contact SSA for additional information about coverage and benefits under social security and Medicare.

FSLG offers a process by which a government employer can voluntarily disclose an identified error and solicit resolution via a walk-in closing agreement. Employers interested in such a resolution may contact an FSLG Specialist or submit a detailed letter disclosing the specific nature of the tax error, the employees affected and their proposed resolution. The letter should be submitted to the following address:

Internal Revenue Service  
T:GE:FSLG:CPM  
1111 Constitution Avenue NW  
Washington, DC 20224  
ATTN: Closing Agreement Coordinator

**Compliance Categories:**

The self-assessment tool consists of the following seven categories.

- 1) Social Security (Section 218 Agreement and Mandatory Social Security)
- 2) Medicare
- 3) Retirement Plan Coverage
- 4) Worker Classification: Employee versus Independent Contractor
- 5) Fringe Benefits
- 6) International Issues
- 7) Other Tax Issues: Information Returns, Independent Contractor Vendors, Payments, Back-up Withholding, and Timely Filing of Returns

# FSLG Compliance Self-Assessment

**We suggest marking the boxes, as follows:**

- OK – for items that either do not apply, or that apply but you believe that you are in compliance.
- Flag – the item applies but you are uncertain whether you are in compliance.

Ok	Flag	Item	Social Security
<input type="checkbox"/>	<input type="checkbox"/>	1.	<p>Does the entity have a voluntary social security coverage agreement, often referred to as a Section 218 Agreement or Modification to the State's Section 218 Agreement? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If not, SKIP to question 4 in this section.</p> <p><b>Note:</b> If an entity is uncertain whether it is covered by a Section 218 Agreement or to obtain a copy of its Section 218 Agreement and any related modifications, contact the State Social Security Administrator at <a href="http://www.ncsssa.org/statessadminmenu.html">http://www.ncsssa.org/statessadminmenu.html</a>.</p>
<input type="checkbox"/>	<input type="checkbox"/>	2.	<p>Have there been any Modifications to the 218 Agreement or the original Modification that provided Section 218 coverage for the entity? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>It may be necessary to contact the <a href="#">State Social Security Administrator</a> to answer this question. If "yes", list all Modification numbers, dates and a description of changes to the Section 218 Agreement made by each Modification. If there have been no modifications, skip to Question 3.</p> <p><b>List the Modifications:</b></p> <p><b>Note:</b> The State Social Security Administrators prepare Section 218 modifications to the states' agreements to include additional coverage groups, to correct errors in other modifications, to identify additional political subdivisions joining a covered retirement system or to obtain Medicare coverage for public employees whose employment relationship with a public employer has been continuous since March 31, 1986.</p> <p>To learn more, contact the <a href="#">State Social Security Administrator</a> for the state.</p>
<input type="checkbox"/>	<input type="checkbox"/>	3.	<p>If the entity has a Section 218 Agreement, are services performed by any employees excluded from social security and Medicare coverage? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> Federal law requires the exclusion of the following services from voluntary (Section 218) coverage under the Social Security Act (Section 218(c)(6)):</p> <ul style="list-style-type: none"> <li>• Services performed by individuals hired to be relieved from unemployment.</li> <li>• Services performed in a hospital, home or other institution by a patient or inmate thereof as an employee of a state or local government.</li> <li>• Services performed by an employee hired on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency.</li> <li>• Services performed by a nonresident alien temporarily residing in the U.S., holding an F-1, J-1, M-1 or Q-1 visa, when the services are performed to carry out the purpose for which the alien was admitted to the U.S.</li> <li>• Covered transportation service as defined in SSA 210(k)</li> </ul> <p><b>Note:</b> Federal law allows for the optional exclusion of the following services from voluntary (Section 218) coverage under the Social Security Act:</p> <ul style="list-style-type: none"> <li>• Services in positions compensated solely by fees received directly from the public are subject to SECA (Self-Employment Contributions Act) taxes.</li> <li>• Services performed by a student enrolled and regularly attending classes at the school, college or university for which they are working.</li> <li>• Services performed by election officials or election workers paid less than the calendar year threshold amount mandated by law.</li> <li>• Services that would be excluded if performed for a private employer because they are not work defined as employment under Section 210(a) of the Social Security Act.</li> </ul>



Ok	Flag	Item	Medicare
<input type="checkbox"/>	<input type="checkbox"/>	1.	<p>Are any employees exempt from Medicare under the Continuing Employment Exception? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> Almost all state and local government employees are covered by Medicare. All employees covered under a section 218 Agreement are covered and employees covered by mandatory social security tax are also covered, unless the employee meets the continuing employment exception, IRC §3121(u). The continuing employment exception applies to an employee hired by a state or political subdivision employer before April 1, 1986, only if the employee is a member of a public retirement system within the meaning of IRC §3121(b)(7)(F) and meets ALL of the following requirements:</p> <ul style="list-style-type: none"> <li>• The employee was performing regular and substantial services for remuneration for the state or political subdivision employer before April 1, 1986;</li> <li>• The employee was a bona fide employee of that employer on March 31, 1986;</li> <li>• The employment relationship with that employer was not entered into for purposes of avoiding the Medicare tax; and</li> <li>• The employment relationship with that employer been continuous since March 31, 1986.</li> </ul> <p>The same services listed above under Social Security #4 that were excluded from mandatory social security tax are also excluded from the Medicare tax. Contact the <a href="#">State Social Security Administrator</a> with any questions pertaining to the foregoing.</p>
<input type="checkbox"/>	<input type="checkbox"/>	2.	<p>Are there any employees from whom Medicare is not withheld, other than those who meet the exceptions from employment listed above under "Social Security Tax", Item number 3? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<input type="checkbox"/>	<input type="checkbox"/>	3.	<p>Does the entity employ any rehired annuitants? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> A rehired annuitant is an individual who is rehired by his or her employer or another employer that participates in the same retirement system as the former employer. This includes a former participant in a state retirement system who has previously retired and who is either (1) receiving retirement benefits under the retirement system or (2) has reached normal retirement age under the retirement system.</p>
<input type="checkbox"/>	<input type="checkbox"/>	A.	<p>If "yes", (the employer does have rehired annuitants), is social security tax withheld and paid on those employees? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<input type="checkbox"/>	<input type="checkbox"/>	B.	<p>If "yes", is Medicare tax withheld and paid on those employees? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> When an employee retires he or she has terminated employment for purposes of the continuing employment exception. Thus, if that former employee is rehired, he or she will be subject to Medicare tax, even if the employee was previously exempt on account of the continuing employment exception.</p>

Notes

Ok	Flag	Item	Retirement Plan Coverage
<input type="checkbox"/>	<input type="checkbox"/>	1.	<p>Does the entity have a public retirement system that qualifies as a replacement for social security coverage? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> A governmental retirement plan must meet certain minimum benefit or contribution standards to qualify as a public retirement system, and thereby serve as a "replacement" plan exempting the participants from mandatory Social Security coverage. These standards are based solely on meeting a minimum benefit level provided (defined benefit plan) or a minimum amount contributed (defined contribution plan) to the participant.</p> <p>Any person working for a public employer after July 1, 1991, who is not covered in a public retirement plan that meets the requirements discussed above and, if applicable, the defined benefit system safe harbor rules of Revenue Procedure 91-40, must be covered by social security and Medicare under the mandatory coverage provisions of Section 210 of the Social Security Act.</p> <p>For more information about public retirement systems (social security replacement plans), see Chapter 6 of the Federal-State Reference Guide, <a href="#">Publication 963</a>.</p>
<input type="checkbox"/>	<input type="checkbox"/>	2.	<p>Is the public retirement plan offered to all employees? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If not, specify categories of employees that are NOT covered. (<i>specify all that apply</i>)</p> <p><b>Note:</b> Employees in these categories must be covered for social security either under mandatory coverage or under a Section 218 Agreement.</p>
<input type="checkbox"/>	<input type="checkbox"/>	3.	Are the contributions to retirement plans subject to the applicable employment taxes? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	A.	<p>3121(b)(7)(F) Retirement Systems <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <ul style="list-style-type: none"> <li>Employee deferrals are exempt from federal income tax withholding but are subject to social security and Medicare taxes.</li> <li>Employer contributions are exempt from federal income tax withholding, social security, and Medicare taxes. However, if the retirement system is not an "exempt governmental deferred compensation plan," employer contributions are subject to social security and Medicare withholding as of the later of when the services are performed, or when there is no substantial risk of forfeiture.</li> </ul>
<input type="checkbox"/>	<input type="checkbox"/>	B.	<p>401(a) and 403(b) Plans <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <ul style="list-style-type: none"> <li>Employee deferrals are exempt from federal Income tax withholding but are subject to social security and Medicare taxes.</li> <li>Employer contributions are exempt from federal Income tax withholding, social security and Medicare taxes.</li> </ul>
<input type="checkbox"/>	<input type="checkbox"/>	C.	<p>457(b) Plans <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <ul style="list-style-type: none"> <li>Employee deferrals are exempt from federal income tax withholding but are subject to social security and Medicare taxes.</li> <li>Employer contributions are exempt from federal income tax withholding but are subject to social security and Medicare taxes when no longer subject to substantial risk of forfeiture.</li> </ul>

Notes

Ok	Flag	Item	Worker Classification
<input type="checkbox"/>	<input type="checkbox"/>	1.	<p>Are all workers properly classified as either employees or as independent contractors? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> Under the common-law standards applied by the IRS, there are three categories of evidence (Behavioral Control, Financial Control and Relationship of the parties) that should be considered to determine whether the worker is an employee or independent contractor.</p> <p>See <a href="#">Publication 963</a>, Chapter 4, for information about worker classification.</p> <p><a href="#">Form SS-8</a>, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding, can be submitted to the IRS to obtain a determination on whether a particular worker is an independent contractor or employee of the entity.</p>
<input type="checkbox"/>	<input type="checkbox"/>	2.	<p>Does the entity have any of the following categories of workers? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, are they classified as employees?</p>
<input type="checkbox"/>	<input type="checkbox"/>	A.	<p>Elected officials <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> A public official has authority to exercise the power of the government and does so as an agent and employee of the government. For this reason, the Supreme Court has held that public officials are employees. A public official performs a governmental duty exercised pursuant to a public law. A public office is a position created by law, holding a delegation of a portion of the sovereign powers of government to be exercised for the benefit of the public.</p> <p>Elected officials are subject to a degree of control that typically makes them employees under the common law. Elected officials are responsible to the public, which has the power not to reelect them. Elected officials may also be subject to recall by the public or a superior official. In any event, elected officials are employees for income tax withholding purposes under Internal Revenue Code §3401(c). Examples of public officials include, but are not limited to; governor, mayor, county commissioner, judge, justice of the peace, sheriff, constable, registrar of deeds, building and plumbing inspectors.</p>
<input type="checkbox"/>	<input type="checkbox"/>	B.	<p>Appointed officials <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> Generally, few appointed officials have sufficient independence such that they will not be considered common-law employees. See <a href="#">Publication 963</a>.</p>
<input type="checkbox"/>	<input type="checkbox"/>	C.	<p>Fee-based positions <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> In general, if an individual performs services as an official of a governmental entity and the remuneration received is paid from governmental funds, the official is an employee and the wages are subject to Federal employment taxes.</p>
<input type="checkbox"/>	<input type="checkbox"/>	3.	<p>Do any employees also receive Form 1099-MISC, Miscellaneous Income, for services that are substantially similar to the services reported as wages on Form W-2, Wage and Tax Statement? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, the amounts reported on Forms 1099-MISC should be reported as Form W-2 wages subject to applicable employment taxes and not reported on Form 1099-MISC.</p>

Notes

Ok	Flag	Item	Fringe Benefits – See <a href="#">Publication 15-B</a> and <a href="#">Publication 5137, Fringe Benefit Guide</a>
<input type="checkbox"/>	<input type="checkbox"/>	1.	<p>Does the entity have an “accountable plan” for reimbursement of business expenses incurred <input type="checkbox"/> Yes <input type="checkbox"/> No by employees?</p> <p><b>Note:</b> In general, reimbursements or advances for expenses paid by the employer on behalf of the employee are taxable unless they are working condition fringe benefits and are ordinary and necessary employee business expenses that would otherwise qualify for a deduction by the employee, and the reimbursements or advances are made under an accountable plan. For payments to be considered to be made under an accountable plan, the employee must:</p> <p>a) Incur the expenses in the performance of work,  b) Substantiate the expenses within a reasonable period of time, and  c) Return any amounts in excess of expenses within a reasonable period of time.</p> <p>If accountable plan rules are met, no tax reporting is necessary. If the rules are not met, the reimbursements or advances are included in wages on Form W-2 and subject to the withholding and payment of employment taxes. The employee may deduct expenses as miscellaneous itemized deductions on his or her Form 1040.</p>
<input type="checkbox"/>	<input type="checkbox"/>	2.	<p>Does the entity include the taxable amount of the following fringe benefits as wages when <input type="checkbox"/> Yes <input type="checkbox"/> No applicable?</p>
<input type="checkbox"/>	<input type="checkbox"/>	A.	<p>Personal use of a government-owned vehicle <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> Unless it is excludable as a qualified non-personal use vehicle, the personal use of a government-owned vehicle is a taxable fringe benefit. Personal use includes the value of commuting to and from work in a government-owned vehicle, even if the vehicle is taken home for the convenience of the employer. The fair market value of the fringe benefit must be included in wages and is subject to income and employment taxes. However, employee use of a qualified non-personal use vehicle qualifies as a working condition fringe. You can exclude the value of that use from employee income. A qualified non-personal use vehicle is any vehicle the employee is not likely to use more than minimally for personal purposes because of its design.</p> <p>The value of the use of the vehicle is determined using one of these methods.</p> <p>1) General valuation rule: the fair market value of a fringe benefit is defined as the price a willing buyer would pay to a willing seller in an arm's-length transaction.</p> <p>2) Alternate valuation rules: each of the following may be used under certain circumstances:</p> <p>a. Lease value rule- Determines the benefit by determining the annual lease value of the vehicle.  b. Cents-per-mile rule- Personal use may be included in wages at a mileage rate (56.5 cents per mile for 2013)  c. Commuting rule – An amount of \$1.50 per one way commute is a taxable fringe benefit.</p> <p><b>Note:</b> A detailed discussion of the valuation rules are included in <a href="#">Publication 15-B</a>.</p>
<input type="checkbox"/>	<input type="checkbox"/>	B.	<p>Clothing provided by the employer <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> Clothing and uniforms provided by the employer are excluded from income if required by work and not suitable for non-business use.</p>
<input type="checkbox"/>	<input type="checkbox"/>	C.	<p>Group-Term Life Insurance <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> The annual cost of \$50,000 of group-term life insurance may be excludable from social security, Medicare, and income tax for each employee. The table for determining the cost of additional insurance is included in <a href="#">Publication 15-B</a>.</p> <p>The cost of group-term life insurance in excess of \$50,000 is subject to social security and Medicare, but not to income tax withholding.</p>
<input type="checkbox"/>	<input type="checkbox"/>	D.	<p>Meals <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> Meals may be excludable from income in the following cases:</p> <ul style="list-style-type: none"> <li>• “De minimis” meals, for example, occasional group meals.</li> <li>• Meals for the convenience of the employer, provided on the business premises</li> </ul>
<input type="checkbox"/>	<input type="checkbox"/>	E.	<p>Lodging <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> Excludable if for employer's convenience as a condition of employment, if on the employer's business premises. Lodging costs may also be excludable if paid for or reimbursed as working condition fringe.</p> <p>See <a href="#">Publication 15-B</a> for information on lodging as a fringe benefit.</p>



Ok	Flag	Item	Fringe Benefits – See <a href="#">Publication 15-B</a> and <a href="#">Publication 5137, Fringe Benefit Guide</a>
<input type="checkbox"/>	<input type="checkbox"/>	F.	Educational Assistance <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>  <b>Note:</b> May be excludable if qualifies: • under educational assistance program (up to \$5,250 per year). • as a working condition fringe benefit.  For more information, see <a href="#">Publication 970</a> , Tax Benefits for Education.
<input type="checkbox"/>	<input type="checkbox"/>	G.	Achievement awards or length of service awards <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>  <b>Note:</b> For more information, see <a href="#">Publication 535</a> , Business Expenses.
<input type="checkbox"/>	<input type="checkbox"/>	H.	Membership Fees Paid <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>  <b>Note:</b> Excludable if for professional and business-related organizations and reasonable business purpose.  Use of athletic or recreation facilities, on employer premises (Includes the use of employer's on-premise facilities to conduct summer sports camps.)  <b>Note:</b> May be excludable if substantially all use is by employee, spouse or dependent children. Use of third-party owned facilities is generally taxable.  For more information, see <a href="#">Publication 15-B</a> .
<input type="checkbox"/>	<input type="checkbox"/>	I.	Moving Expenses <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>  <b>Note:</b> Exempt (up to limits) if expenses would be deductible if the employee had paid them.  These rules are further illustrated in <a href="#">Publication 521</a> , Moving Expenses.
<input type="checkbox"/>	<input type="checkbox"/>	J.	Gift Certificates <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>  <b>Note:</b> Gift certificates that are cash equivalent are not excludable from income as de minimis fringe benefits.

Notes

Ok	Flag	Item	International
<input type="checkbox"/>	<input type="checkbox"/>	1.	<p>Did the entity make payments of any item of income to a foreign person that is subject to withholding? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If not, indicate "OK" and skip the International Issues section.</p> <p><b>Note:</b> Employees or independent contractors who are not U.S. citizens may be required to furnish their employer with a Form I-9, Employment Eligibility Verification, Form W-4, Employee's Withholding Allowance Certificate, or a W-8 series form. P.O. Boxes from a foreign country are acceptable.</p> <p>The Form W-8 series includes:</p> <ul style="list-style-type: none"> <li>• W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding;</li> <li>• W-8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States;</li> <li>• W-8EXPC, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding; and</li> <li>• W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding</li> </ul>
<input type="checkbox"/>	<input type="checkbox"/>	2.	<p>Did the entity employ resident aliens? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, were withholding income, social security and Medicare taxes followed in the same way as for U.S. citizens?</p>
<input type="checkbox"/>	<input type="checkbox"/>	3.	<p>Did the entity employ nonresident aliens? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, indicate "OK" and skip the rest of "International" and continue with "Other Issues" below</p> <p><b>Note:</b> For information on determining who is a nonresident or resident alien, see <a href="#">Publication 519</a>.</p>
<input type="checkbox"/>	<input type="checkbox"/>	A.	<p>Did any of the nonresident aliens holding an F-1, J-1, M-1 or Q-1 Visa provide documentation, including copies of the Visa and Form I-9 with supporting documents to support exemption from social security and Medicare taxes? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> If this documentation was not provided, social security and Medicare taxes should be withheld from the wages paid to these nonresident aliens. However, a nonresident alien student may be eligible for the student FICA exception under IRC §3121(b)(10).</p>
<input type="checkbox"/>	<input type="checkbox"/>	B.	<p>Did any nonresident aliens have a visa status other than F-1, J-1, M-1 or Q-1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, were social security and Medicare taxes withheld as required? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> Nonresident aliens holding other visas, such as an H-1 or any secondary visa are subject to social security and Medicare withholding.</p>
<input type="checkbox"/>	<input type="checkbox"/>	C.	<p>Is federal income tax withheld as required? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> Nonresident aliens should complete a Form W-4, using Notice 1392 and Form 8233 to claim tax treaty benefits. The employer should include procedures for completing Form W-4 and use of Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, to claim a treaty exemption. See <a href="#">Publication 15</a> for the rules for completing Form W-4 and claiming a tax treaty exemption on Form 8233.</p>
<input type="checkbox"/>	<input type="checkbox"/>	D.	<p>Do any nonresident aliens claim a treaty exemption using Form 8233? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, were federal income taxes withheld using the current treaty provisions? See <a href="#">Publication 901</a> for treaty information.</p>
<input type="checkbox"/>	<input type="checkbox"/>	E.	<p>For nonresident aliens who did not claim a treaty exemption, were federal income taxes withheld using the presumption rules described in Publication 515? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> If the nonresident alien did not claim a treaty exemption, Federal withholding taxes must be computed based on the completed Form W-4 for the nonresident alien and also by following the steps outlined in Chapter 9 of <a href="#">Publication 15</a>.</p>

Ok	Flag	Item	International
<input type="checkbox"/>	<input type="checkbox"/>	4.	<p>Does the entity have vendors or outside contractors that are nonresident aliens? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Note:</b> Generally, withholding is required at 30% (or lower treaty rate) from the gross amount paid to a nonresident alien. Use Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding for payments to nonresident aliens.</p>
<input type="checkbox"/>	<input type="checkbox"/>	5.	<p>Are payments to nonresident aliens subject to NRA withholding reported on Form 1042-S, <input type="checkbox"/> Yes <input type="checkbox"/> No and if withholding was required, was a tax return filed on Form 1042?</p>

**Notes**

Ok	Flag	Item	Other Tax Issues – See <a href="#">Publication 15</a>
<input type="checkbox"/>	<input type="checkbox"/>	1.	Employment Tax Filing
<input type="checkbox"/>	<input type="checkbox"/>	A.	Are all Forms 941 / 944 / 945 filed as required? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/>	<input type="checkbox"/>	B.	Are all Forms 941 / 944 / 945 filed by the date required? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/>	<input type="checkbox"/>	C.	Are all Forms 941 / 944 / 945 filed complete and accurate? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/>	<input type="checkbox"/>	D.	Do wage and withholding amounts for income, social security and Medicare reconcile between Forms W-3, W-2, and 941? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Do the amounts reported on these forms also reconcile to the accounting records? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/>	<input type="checkbox"/>	2.	Independent Contractor Reporting
<input type="checkbox"/>	<input type="checkbox"/>	A.	Does the entity make payments to independent contractors? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	B.	Are Forms W-9, Request for Taxpayer Identification Number and Certification, secured from vendors / contractors prior to initial payment? <input type="checkbox"/> Yes <input type="checkbox"/> No <b>Note:</b> Form W-9, or its equivalent, should be secured from all vendors / contractors before any payments are made. Use <a href="#">Form W-9</a> , Request for Taxpayer Identification Number and Certification, to secure the owner's name (if sole proprietor), legal business name, mailing address and taxpayer identification number.
<input type="checkbox"/>	<input type="checkbox"/>	C.	Are Forms W-9 on file for every vendor or independent contractor? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	D.	Are all Forms W-9 properly completed? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	E.	Are Forms 1099-MISC filed for all vendors / contractors (except for some legally exempt ones) for payments aggregating \$600 or more per year? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	F.	Does the entity file Form 1099-MISC for payments to individuals, partnerships, and certain corporations? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	G.	Does the entity file Form 1099-MISC to attorney recipients (whether or not incorporated)? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	H.	Does the entity file Form 1099-MISC for medical and health care payments (including to incorporated recipients)? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	3.	Backup Withholding If applicable, did the entity withhold Federal income tax on miscellaneous income under backup withholding provisions? <input type="checkbox"/> Yes <input type="checkbox"/> No <b>Note:</b> Notice CP2100 is issued in situations where prior year information returns contained missing or incorrect taxpayer identification numbers and name/identification number mismatches. Backup withholding is required on reportable payments made to a U.S. person if: 1) the U.S. person has not provided its taxpayer identification number (TIN) in the manner required; or 2) The IRS notifies you that the TIN is incorrect. Generally, a TIN must be provided on Form W-9. A payer reports backup withholding on Form 945. For additional information on backup withholding, see <a href="#">Publication 1281</a> , Backup Withholding for Missing and Incorrect Name/TINs and <a href="#">Publication 15</a> , beginning on page 9.

Notes

Ok	Flag	Item	Other Tax Issues – See <a href="#">Publication 15</a>
<input type="checkbox"/>	<input type="checkbox"/>	4.	Does the entity have written policies in place for the following?
<input type="checkbox"/>	<input type="checkbox"/>	A.	Employer-provided passenger automobiles? <input type="checkbox"/> Yes <input type="checkbox"/> No  <b>Note:</b> Two types of written policy statements relating to a vehicle provided by the employer qualify as sufficient evidence corroborating the employer's own statement, and therefore will satisfy the substantiation requirements if initiated and kept by an employer to implement a policy of either: 1) No personal use – see the requirements of Regulation §1.274-6T(a)(2). 2) No personal use except for commuting – see the requirements of Regulation §1.274-6T(a)(3).  A written policy statement adopted by a governmental unit as to employee use of its vehicles (for example, a city council resolution or a state law) meets these substantiation rules if the conditions in the above cited Regulations are met.
<input type="checkbox"/>	<input type="checkbox"/>	B.	Other listed property or reimbursement of travel expenses? <input type="checkbox"/> Yes <input type="checkbox"/> No  <b>Note:</b> It is not required that the employer have a separate written policy to meet the substantiation requirements for these items. Adequate accounting for these items by employees means the submission to the employer of an account book, diary, log, statement of expense, trip sheet, or similar record maintained by the employer in which the required information as to each element of expenditure or use is recorded at or near the time of the expenditure or use in a manner that conforms to the listed property requirements.
<input type="checkbox"/>	<input type="checkbox"/>	C.	Educational assistance program? <input type="checkbox"/> Yes <input type="checkbox"/> No  <b>Note:</b> For benefits to be excludable, an educational assistance plan must be in writing and meet certain other tests. See <a href="#">Publication 15-B</a> .
<input type="checkbox"/>	<input type="checkbox"/>	5.	Is the entity required to file any of the following federal tax or information returns?  <b>Note:</b> All forms and instructions are available at <a href="http://www.irs.gov/Forms-&amp;-Pubs">http://www.irs.gov/Forms-&amp;-Pubs</a> .
<input type="checkbox"/>	<input type="checkbox"/>	A.	Form 720, Quarterly Excise Tax Return <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	B.	Form 990, Return of Organization Exempt from Income Tax <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	C.	Form 990-T, Exempt Organization Business Income Tax Return <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	D.	Form CT-1, Employer's Annual Railroad Retirement Tax Return <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	E.	Form 1096, Annual Summary and Transmittal of U.S. Information Returns <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	F.	Form 1098-E, Student Loan Interest Statement <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	G.	Form 1098-T, Tuition Statement <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	H.	Form 1099-G, Certain Government Payments <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	I.	Form 1099-INT, Interest Income <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	J.	Form 1099-MISC, Miscellaneous Income <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	K.	Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	L.	Form 8300, Cash Payments over \$10,000 Received in Trade or Business <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	M.	Form W-2, Wage and Tax Statement <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	N.	Form W-3, Transmittal of Wage and Tax Statements <input type="checkbox"/> Yes <input type="checkbox"/> No

**Notes**

Ok	Flag	Item	Other Tax Issues – See <a href="#">Publication 15</a>
<input type="checkbox"/>	<input type="checkbox"/>	6.	Form W-4, Employee's Withholding Allowance Certificate
<input type="checkbox"/>	<input type="checkbox"/>	A.	Are Forms W-4 on file for every employee? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	B.	Are all Forms W-4 secured prior to initial payment? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	C.	Are all Forms W-4 properly completed? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	D.	Are new Forms W-4 secured each year from all individuals claiming to be exempt from income tax withholding? <input type="checkbox"/> Yes <input type="checkbox"/> No

**Notes**

You have completed the FSLG Compliance Self-Assessment Tool. If you believe you have compliance issues based on your responses above, you may wish to contact your local [IRS Federal, State and Local Government \(FSLG\) Office](#) for assistance.