



W. Kendall Wynne, Jr.

**Judge Superior Courts
Alcovy Judicial Circuit**

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NEWTON AND WALTON
COUNTY

September 9, 2025

Mr. David Thompson
Chairman, Walton County Board of Commissioners
111 South Broad Street
Monroe, Georgia 30655

Mrs. Linda D. Hays
Chairwoman, Newton County Board of Commissioners
1124 Clark Street
Covington, Georgia 30014

Rc: Court Reporter Compensation

Dear Chairman Thompson and Chairwoman Hays:

I write on behalf of the judges of the Superior Courts of the Alcovy Judicial Circuit to request your assistance in resolving an issue concerning the compensation of our official court reporters. This issue has resulted in the reporters not receiving their full compensation for the months of July and August of the current fiscal year. Given the history of the close working relationship that both counties have had with the judicial branch of government in this Circuit, we are hopeful this can be remedied in short order by an informal agreement followed by an official intergovernmental agreement at each county's board meetings as soon as is practicable.

By way of background, you will recall that during the budget process, Judge Zon presented a plan on behalf of all the Superior Court judges to increase the compensation of our court reporters. This was necessary because the court reporters had not had an increase in pay since 2015. This has been further exacerbated because court reporters are in short supply, requiring us to compete with other circuits that are luring reporters away with better compensation. In fact, one of our longest-serving court reporters left to take a job in another circuit on more favorable terms.

Both counties approved the draft plan we submitted. The plan called for the reporters to retain their status as Walton County employees but, instead of each county compensating them on a per diem basis for appearing in court on both criminal and civil court days, each county would contribute equally toward a base salary of \$60,000. While the reporters are appointed by the judges, serve at the pleasure of the judges, and therefore are not protected by the county's civil service system,

they would nonetheless receive the benefits offered by Walton County to all other employees¹. Walton County would serve as the fiscal agent and issue a regular paycheck to each reporter for the full \$60,000 salary, less withholdings, and Newton County would reimburse Walton County for half of the salary plus the cost of benefits. For tax purposes, Walton County would issue a W-2 each year to each reporter and report this as regular employee income.

In addition, the reporters would still submit invoices to each county for transcripts in felony cases (including trials, guilty pleas, motion hearings, and felony probation violations) and limited civil or domestic matters when ordered by the court. Similarly, if requested by the parties or attorneys in civil or domestic cases, the reporters may charge the parties or their attorneys the per diem authorized by the Judicial Council of Georgia, as well as the cost of taking down and transcribing proceedings in those cases. For income from civil and domestic cases, as well as income from providing transcripts in criminal felony cases to the counties, each reporter would remain responsible for reporting that income as self-employment earnings. (See Rev. Ruling 58-360.)

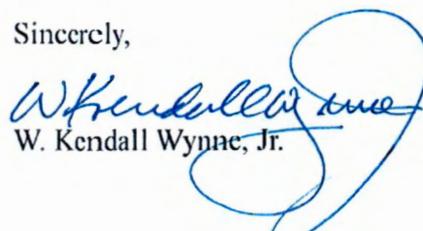
Although both counties approved the plan, the intergovernmental agreement was overlooked during the budget process. As a result, Walton County has paid each reporter only its half of the monthly salary amount, and Newton County has paid nothing. The reporters have continued to work in good faith but have received only half of their agreed upon salary for July and August.

To remedy this, we propose that both counties agree that Walton County will issue an additional check as soon as is practicable to each reporter to cure the arrearage and that Newton County will subsequently reimburse Walton County for their half of the cost. To help cure the issue, we have drafted the enclosed intergovernmental agreement for each county's review and look forward to placing it before both county's Board of Commissioners for approval. The judges and I will also complete an internal protocol for the reporters on coverage, expectations, etc.

Should either of you wish to discuss this further, please do not hesitate to reach out directly, as prompt resolution of this is important to all of us and especially to our reporters. We will also make ourselves or a representative available at the upcoming Board of Commissioners meeting as needed.

On behalf of the entire bench, we are grateful for the cooperation and assistance of both counties in ensuring the smooth and uninterrupted operation of the Superior Courts.

Sincerely,



W. Kendall Wynne, Jr.

cc: The Honorable Layla H. Zon (via email)
The Honorable Jeffrey L. Foster (via email)
The Honorable Cheveda D. McCamy (via email)

¹ Paid leave would be calculated based on the county's leave policy, subject to the judges' approval and discretion to limit the number of days of paid leave, considering among other things the business of the court and the funds budgeted for substitute court reporters to cover court in the official court reporters' absence.

The Honorable G. Kevin Morris (via email)
Mr. John Ward (via email)
Mr. James Brown (via email)
Ms. Melissia Rusk (via email)
Ms. Jennifer Wall (via email)
Dr. Amanda Shocmaker (via email)
Ms. Brittany White (via email)
T. J. BeMent (via email)

Alcovy Judicial Circuit

Intergovernmental Agreement Pertaining to Employment and Compensation of Official Court Reporters and Substitutes for Official Court Reporters for the Superior Courts of the Alcovy Judicial Circuit

This intergovernmental agreement is made between the governing bodies of Newton County, Georgia ("Newton County"), Walton County, Georgia ("Walton County"), and the Superior Courts of the Alcovy Judicial Circuit (comprised of Newton County and Walton County), as defined below, for the purpose of administration of the salary and benefits for the Official Court Reporters and their substitutes for the Superior Courts of the Alcovy Judicial Circuit (the "Superior Courts").

WHEREAS the Judges of the Superior Courts of the Alcovy Judicial Circuit are authorized by O.C.G.A. Sec. 15-14-1 to appoint and, at their pleasure, to remove their Official Court Reporters ("Reporters"); and

WHEREAS the Reporters of the Alcovy Judicial Circuit provide services required by law; and

WHEREAS pursuant to law, the Judicial Council of Georgia ("Judicial Council") has authorized courts that hire court reporters as employees to arrange compensation and scope of work for them under their terms of employment, similar to other employees, using the fee schedule promulgated by the Judicial Council as a guide for salaries; and

WHEREAS it is necessary to increase the compensation of the official court reporters of the Alcovy Judicial Circuit to compensate them more fairly for their service and to retain experienced court reporters in the current market in which court reporters are in short supply;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration the parties hereunto agree as follows:

Shared Support for Official Court Reporter Positions.

The following provisions shall apply for the positions of Official Court Reporter of the Superior Courts:

- a) It is the intention of the parties that five (5) positions be established in Walton County as Official Court Reporters of the Alcovy Judicial Circuit.
- b) The positions shall be classified per a written position description to be agreed to by Superior Courts with the concurrence of Walton County.
- c) Walton County shall pay each of the five (5) Reporters of the Alcovy Judicial Circuit a base annual salary of \$60,000.00 (less withholdings required by law).
- d) Each Reporter shall be eligible to receive the benefits (insurance for medical/health, dental, and vision) offered to other Walton County employees.

- c) Paid leave will be calculated based on Walton County's leave policy, subject to the judges' approval and discretion to limit the number of days of paid leave, considering among other things the business of the court and the funds budgeted for substitute court reporters to cover court in the official court reporters' absence.
- f) Each Reporter is appointed by his or her appointing judge, serves at the pleasure of the appointing judge, and is therefore not protected by Walton County's civil service system.
- g) Determination of work assignments, hiring, discharge, employee discipline, and paid leave of each Reporter shall be the responsibility of his or her appointing judge.
- h) In lieu of paying the Reporters a per diem for court attendance for both civil and criminal cases, Walton County shall pay the salary and benefits described above, subject to regular employee withholdings required by law, and shall report such salary to the appropriate government agencies on IRS Form W-2 and on the appropriate form required by the Georgia Department of Revenue.
- i) Each county shall pay to each Reporter, as an independent contractor, invoiced fees for all felony criminal transcripts arising from cases in its county and for limited misdemeanor and civil matters as ordered by the Superior Courts and shall report such payments to the appropriate government agencies on IRS Form 1099 and on the appropriate form required by the Georgia Department of Revenue.
- j) Newton County and Walton County understand that, in addition to the compensation described above, the Reporters, if requested by the parties or attorneys in civil cases, may charge the parties or their attorneys in such cases the per diem, cost of take-down, and cost of transcription authorized by the Judicial Council in accordance with the fee schedule promulgated by the Judicial Council. Each Reporter is responsible for reporting this income as income from a trade or business and includable as net earnings from self-employment. (See Rev. Ruling 58-360.)
- k) Each county shall pay for substitute court reporters for all criminal matters arising from cases in its county when none of the Reporters are available due to leave, conflict, or otherwise approved absence.
- l) Each county hereby ratifies the actions of its Chair of the Board of Commissioners taken to cure any arrearage in payments that accrued from the beginning of the fiscal year until the adoption of this agreement.
- m) Walton County shall bear the cost of the salary and benefits and shall be reimbursed for 50% of all such expenses by Newton County either monthly or quarterly as agreed to by the counties. Each county shall bear the cost of their transcript production and for any authorized substitutes within thirty (30) days of receipt of each such reconciled invoice(s).
- n) All Reporters governed by this I.G.A. shall have access (key or keycard) to the Superior Courts chambers in both counties. Each keycard or key shall be distributed to each circuit employee and returned to the Superior Court on his or her last day of service to the Alcovy Judicial Circuit.

The above requirements shall be in addition to the requirements of State and federal law and shall be construed to be in conformity with those laws.

Made and entered into this _____ day of, 2025.

Newton County Board of Commissioners

By: _____

Walton County Board of Commissioners

By: _____

Superior Courts, Alcovy Judicial Circuit

By: _____

Internal Revenue Service

Index Number: 3121.04-00; 3306.05-00;
3401.04-00

Attn:

Key

worker =

firm =

X =

Dear

This is in response to a request for a ruling submitted by the above-named worker concerning his federal employment tax status with respect to services he performs preparing and selling court transcripts.

The federal employment taxes are those imposed by the Federal Insurance Contributions Act (FICA) and the collection of income tax at source on wages. In cases that involve a possible employer-employee relationship, it is our practice to solicit information from all of the parties involved. Accordingly, this ruling is based on the information we received from both X and the worker.

According to the information submitted, the firm is a district court. The worker is engaged to attend and record court proceedings and prepare transcripts for the government and private sector. As compensation for attending and recording court proceedings, the worker receives an annual salary and is treated as an employee. The firm reports this income on Form W-2. In addition, as compensation for preparing transcripts, the worker receives income from fees charged to the parties ordering the transcripts pursuant to a fee schedule established by the Judicial Conference. The firm reports this income on Form 1099. This ruling is concerned only with the federal

Department of the Treasury

Washington, DC 20224

199914044

Person to Contact:

Telephone Number:

Refer Reply To:

CC:EBEO:6 - PLR-107769-98

ite:

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employment tax status of the worker with respect to the services he performs in selling transcripts.

The worker's services are performed pursuant to a Court Reporter's Manual and a Guide to Judiciary Policies and Procedures. X states that in order to ensure that litigants and parties are not overcharged for transcripts and because an official court reporter is the only one authorized to report court proceedings, the Judicial Conference, pursuant to statutory authority, has prescribed the transcript format and fee requirements. Court reporters may not deviate from these requirements when preparing official transcripts. Court reporters can, however, request a deposit on transcripts from private parties, but cannot similarly request deposits on transcripts from the firm. The worker is required to submit regular reports to the Clerk of the Court concerning attendance, transcripts furnished and fees charged, as well as receipts and earnings.

The worker performs his services at the firm's location, although X states that he may perform them elsewhere. He is provided with office furniture and a telephone. The worker has a financial investment with respect to his transcription equipment. Any expenses incurred by the worker, such as transcription costs and postage, are paid by the worker. A Certified Shorthand Reporter license is necessary to perform the services and the license fee is paid by the worker. It is understood that the worker performs his services personally. The worker states that when necessary, he may engage helpers to assist him. X and the worker disagree about whether the firm's approval is necessary when helpers are hired. The worker pays the helpers from the transcription fees and reports their earnings to the Service.

Section 3121(d)(2) of the Internal Revenue Code defines "employee" as any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

The question of whether an individual is an employee under the common law rules or an independent contractor is one of fact to be determined upon consideration of the facts and the application of the law and regulations in a particular case. Guides for determining the existence of that status are found in three substantially similar sections of the Employment Tax Regulations, namely, sections 31.3121(d)-1, 31.3306(i)-1, and 31.3401(c)-1, relating to the FICA, the FUTA, and federal income tax withholding, respectively.

Section 31.3121(d)-1(c)(2) of the regulations provides that generally, the relationship of employer and employee exists when the person for whom the services are performed has the right to control and direct the individual who performs the services not only as to the result to be accomplished by the work, but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but as to how it shall be done. In this

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connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he or she has the right to do so. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished and not as to the means and methods for accomplishing the result, he or she is an independent contractor.

Section 31.3121(d)-1(a)(3) of the regulations provides that if the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as partner, coadventurer, agent, independent contractor, or the like.

Rev. Rul. 58-360, 1958-2 C.B. 423 examines the status of individuals engaged as Federal court reporters. The ruling provides that in addition to the statutory wage received for performance of their basic duties, the court reporters receive income from fees charged for furnishing official transcripts of recorded proceedings to those persons ordering them. The maximum page fees charged for such transcripts are prescribed by the Judicial Conference. However, in certain instances such as in cases of an unduly long trial, or those requiring daily copy or voluminous transcription, the reporter retains bargaining power in that fees charged are the result of an agreement, albeit subject to the court approval, between the reporter and the person ordering the transcript. Transcripts ordered by any person, other than the judge, are generally billed to that person. The ruling concludes that fees received by Federal court reporters from the preparation and sale of official transcripts represent income from a trade or business, such activity being aside from their basic duties for which they receive a statutory wage. Such additional income is includible in computing net earnings from self-employment for purposes of the tax on self-employment.

We have carefully considered the information submitted in this case. In applying the principles enunciated in the Code, regulations and Rev. Rul. 58-360, we conclude that the fees received by the worker from the sale of transcripts represents income from a trade or business and that such income is includible in computing net earnings from self-employment. Accordingly, the worker is not the firm's employee with respect to the services he performs in selling transcripts.

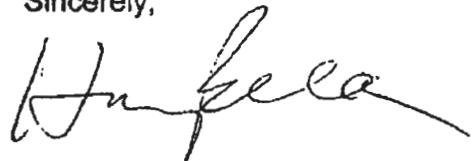
This letter does not constitute a Notice of Determination Concerning Worker Classification Under Section 7436 of the Code.

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This ruling is applicable to any other individuals engaged by the firm under similar circumstances. This ruling is directed only to the taxpayer to whom it is addressed. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,



HARRY BEKER
Chief, Branch 6
Office of the Associate
Chief Counsel
(Employee Benefits and
Exempt Organizations)

Enclosure:
Copy for section 6110 purposes