



Employer *Bulletin*

Employer Communication Center (608) 264-7900 Toll free: 1-888-681-3952 <http://etf.wi.gov>

The Fallen Heroes Survivor Income Tax Exemption

This *Employer Bulletin* provides an update from the Department of Employee Trust Funds (ETF) regarding an income tax exemption for survivor annuities paid to the surviving spouses, former spouses, or children of public safety officers who have been killed in the line of duty. The content consists of:

- An explanation of the law.
- Process for past public safety officer deaths.
- Process for future public safety officer deaths.

The following forms are available at etf.wi.gov:

- *Employer Certification of Eligibility for Public Safety Officer Survivor Benefit Tax Exemption* (ET-6329) <http://etf.wi.gov/publications/et6329.pdf>.
- *Survivor Certification of Eligibility for Public Safety Officer Survivor Benefit Tax Exemption* (ET-6330) <http://etf.wi.gov/publications/et6330.pdf>.

Explanation of the Law

A Wisconsin Retirement System (WRS) annuity paid to the survivor of a public safety officer killed in the line of duty may be eligible for an income tax exemption under the federal Taxpayer Relief Act of 1997 and the Fallen Hero Survivor Benefit Fairness Act of 2001. Together, these laws provide an income tax exemption for survivor annuities paid to the surviving spouses, former spouses and/or children of public safety officers who have been killed in the line of duty.

To not withhold taxes from the survivor's WRS annuity, ETF must receive a completed *Employer Certification of Eligibility for Public Safety Officer Survivor Benefit Tax Exemption* (ET-6329) from the decedent's employer certifying the following:

- The deceased employee was an active WRS-covered employee who was a public safety officer as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (OCCSSA)¹ who was killed in the line of duty.
- The death was **NOT** caused by the intentional misconduct of the officer or by the officer's intention to bring about his or her own death.
- The officer was **NOT** voluntarily intoxicated at the time of death.
- The officer was **NOT** performing his or her duties in a grossly negligent manner at the time of death.

Important Notes:

1. Not all protective category employees under the WRS fall within the OCCSSA definition of a public safety officer. For example, game wardens do not meet the federal definition of a public safety officer.

¹The "Omnibus Crime Control and Safe Streets Act of 1968," Act 19, 1969, P.L. 90-351, which appears generally as 42 USC §§ 3701 et seq., including Title 26 USC Sec. 101(h) as amended by the Fallen Heroes Survivor Benefit Fairness Act of 2001.

2. It is the responsibility of the survivor, with supporting information from the decedent's employer, to determine their eligibility based on the federal regulations. ETF does not have the authority or ability to make this determination because federal law defines the eligibility criteria for this tax exemption. If the survivor is unsure about his/her eligibility for this tax exemption, please suggest they contact a tax adviser or the Internal Revenue Service.

Process for Past Public Safety Officer Deaths

The process for public safety officers who died in the line of duty in the past will originate with the survivor.

- In the near future, ETF will send survivors who may be eligible for the tax exemption a letter informing them of their potential eligibility. Survivors who think they are eligible will need to complete the *Survivor Certification of Eligibility for Public Safety Officer Survivor Benefit Tax Exemption* (ET-6330) included with the letter and return it to ETF.
- If you were the decedent's employer at the time of death, ETF will send you an *Employer Certification of Eligibility for Public Safety Officer Survivor Benefit Tax Exemption* (ET-6329) to certify that the circumstances of the decedent's death met the statutory requirements for this tax exemption. Please return this form to ETF promptly.
- After the employer returns ET-6329 to ETF, we will issue a revised 1099-R to the survivor, stating that the portion of the annuity that is due to the decedent's service as a public safety officer is not included in the taxable amount.

Process for Future Public Safety Officer Deaths

The process for public safety officers who die in the line of duty after the publication date of this *Employer Bulletin* will originate with the employer.

- If a public safety officer that you employ dies in the line of duty, complete the *Employer Certification of Eligibility for Public Safety Officer Survivor Benefit Tax Exemption* (ET-6329) and submit it to ETF.
- ETF will send the deceased public safety officer's survivor(s) the *Survivor Certification of Eligibility for Public Safety Officer Survivor Benefit Tax Exemption* (ET-6330) to complete and return to ETF.
- If both forms show that the decedent's employment and the circumstances of his or her death met the requirements of federal law, ETF will not withhold taxes on the portion of the survivor annuity that is due to the decedent's service as a public safety officer. The survivor's annual 1099-R form from the WRS will show this income as tax exempt.

Contact

For questions regarding this *Employer Bulletin*, please contact the Employer Communication Center toll free at (888) 681-3952 or locally in the Madison area at (608) 264-7900.