

CHAPTER 23 — FALLEN HEROES TAX EXEMPTION

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2300 Fallen Heroes Tax Exemption

A Wisconsin Retirement System annuity or lump sum 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 or lump sums paid to the surviving spouse, former spouse 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 or lump sums, the Department of Employee Trust Funds 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 public safety officer, as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (OCCSSA), killed in the line of duty.
- The death was **not** caused by the intentional misconduct of the officer or the officer's intention to bring about their own death.
- The officer was **not** voluntarily intoxicated at the time of death.
- The officer was **not** performing their 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."
2. ETF cannot determine eligibility; federal law defines who is eligible. It is the responsibility of the survivor, with supporting information from the decedent's employer, to determine eligibility based on 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 eligibility for this tax exemption, please suggest they contact a tax adviser or the Internal Revenue Service.

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.

2301 Employer Reporting

If an actively employed public safety officer 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 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.

2302 Employer Certification of Eligibility for Public Safety Officer Survivor Benefit Tax Exemption (ET-6329)

ET-6329 - Employer Certification of Eligibility for Public Safety Officer Survivor Benefit Tax Exemption

ET-6330 - Survivor Certification of Eligibility For Public Safety Officer Survivor Benefit Tax Exemption