

NOTICE:

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.

(This notice is required by A.R.S. § 41-1091(B).)

NOTICE OF SUBSTANTIVE POLICY STATEMENT
DEPARTMENT OF ECONOMIC SECURITY

1. Title of the substantive policy statement and the substantive policy statement number by which the policy statement is referenced:

Unemployment Insurance Tax: Expanded Definition of Private Home and Domestic Services. The substantive policy statement number is 17P-C011.

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:

The substantive policy statement was issued and will become effective upon filing with the Office of the Secretary of State.

3. Summary of the contents of the substantive policy statement:

The substantive policy statement describes the Department's rationale and determination made to follow the broad definitions of "private home" and "domestic employer" in the case of domestic services, for the purpose of Unemployment Insurance Tax.

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:

A.R.S. § 23-613 (C)

Arizona Administrative Code (A.A.C.) R6-3-1301(16) (a)

Internal Revenue Service Ruling 74-388 (modified Revenue Ruling 68-398)

Social Security Handbook, 2009, §917

5. **Statement as to whether the substantive policy statement is a new statement or a revision:**

This is a new substantive policy statement.

6. **Name, address and telephone number of the person to whom questions and comments about the substantive policy statement may be directed:**

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Policy Statement
Number: 17P-C011
Unemployment Insurance Tax
Date Issued: May 19, 2010

SUBJECT

Definition of “private home” and domestic services performed for a trust(s), trustee(s), guardian(s) or conservator(s) or administrator of an estate.

AUTHORITY

Arizona Revised Statute (A.R.S.) § 23-613 (C) defines an employer in the case of domestic service in a private home as someone who pays case wages of one thousand (\$1000) dollars to individuals performing domestic service.

Arizona Administrative Code (A.A.C.) R6-3-1301(16)(a) expanded the definition of “private home” to include “a separate and distinct dwelling unit in an apartment house, hotel, or other similar establishment...”

The definition of “private home” was broadened by the Internal Revenue Service (IRS) for Federal Unemployment Taxes (FUTA) to include any type of shelter used as residence e.g., apartment, boat, or trailer, room or suite in a nursing home or a hospital, or designated space, room, or suite in a sanatorium or similar institution. Internal Revenue Service Ruling 74-388; Social Security Handbook 2009 § 917. (SSA) (available at <<http://www.ssa.gov>> (accessed August 17, 2009).

The terms “trustee,” “guardian,” and “conservator” are synonymous and, therefore, a trust, guardianship, or conservatorship should be considered a domestic employer because a trust, guardianship, or conservatorship is basically an extension of the individual and is established solely for the benefit of a beneficiary. Attorney General Opinion dated March 14, 1977. Additionally, domestic service performed in the decedent’s home if the home is maintained by the administrator as a private home for the decedent’s family would be considered domestic service so long as the home was not “merely being held pending its sale or other disposition.” Internal Revenue Service Ruling 69-516.

DISCUSSION AND CONCLUSION

The Department will follow the broad definitions of “private home” and “domestic employer” pursuant to the Internal Revenue Rulings in the case of domestic services.

A domestic employer may also be a trust(s), trustee(s), guardian(s) or conservator(s) or an administrator of an estate.

Where a covered account is changed to an estate, guardianship, or conservatorship due to the incapacity or death of the principal, it will be treated as a name revision only rather than an actual ownership change.

REFERENCES

A.R.S. §§ 23-613 (C).

Arizona Administrative Code (A.A.C.) R6-3-1301(16) (a).

Internal Revenue Service Ruling 74-388 (modified Revenue Ruling 68-398).

Social Security Handbook, 2009, §917.

AGENCY RECEIPT

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Unemployment Insurance Tax: Expanded Definition of Private Home and Domestic Services. The substantive policy statement number is 17P-C011.