CTAS Guidance: County Election Workers – Payroll Taxes and E-Verify 2026

1. Full and part-time election workers should be classified as "**employees" of the county and NOT independent contractors**. **A W-2 form should be issued NOT a 1099.** Elections workers are directed by the county election administrator staff, use county owned equipment, operate polling places based upon set hours and are under the supervision and control of the county. This meets the IRS regulatory definition of an employee. Per IRS guidance election workers are defined as common-law employees. (Footnotes A, B, & H)

2. Part-time employees are required to complete **IRS Form W-4 for federal income tax withholding**. The employee can elect $0 federal income tax withholding but is required to complete a new W-4 for each calendar year. If the employee wants federal income tax withheld, they only need to complete one W-4 form until they wish to change their federal withholding by completing an updated W-4. (Footnotes C & D)

3. Full and part-time employees hired or rehired after 11/6/1986 are required to complete a **Form I-9** to verify their identity and employment eligibility, which should be completed when hired, but no later than the first day of work. They must provide **either**: (a) current U.S. passport (Form I -9 List A), **or** (b) **two forms** of identification such as (1) state issued photo driver's license or ID (Form I-9 List B), **AND** (2) social security card or certified birth certificate (From I-9 List C). The employer portion of the I-9 must be completed within 3 business days and retained for 3 years from the hire date, or 1 year after termination, whichever is later. If rehired within 3 years from the original I-9 they can reverify and complete Supplement B of the I-9 form. If rehired more than 3 years after the original I-9 was completed, then a new I-9 is required with identity documentation from List A or two forms from List B and C. (Footnote E)

4. Effective 7/1/2026 TN Public Chapter 772 counties must use **E-Verify,** if currently using a third-party vendor for I-9 verification then the county must start using E-Verify directly no later than 1/1/2027. **TN Secretary of State – Division of Elections on 9/29/2026 issued a memorandum to County Coordinator of Elections to use E-Verify which require completion of I-9 for all election employees.** (Footnotes F & K)

5. If a part-time election worker **is also a full-time non-exempt county employee** (hourly pay rate) and works more **than 40 actual hours per week** (regular full-time job + part-time election job) during the election period, then they must be paid overtime at 1.5 times

their standard hourly pay rate. This would be applicable regardless of the standard "daily" or "hourly" pay rate for other part-time election employees. (Footnote G)

6. If the county has a **Section 218 Agreement** (see Modification 761 Social Security Agreement dated 8/16/1951 and updated **1/1/1995** for a list of 35 qualifying TN counties), gross wages paid up to a maximum of **$2,500** for calendar year **2026 (adjusted annually for inflation by the IRS),** per IRS Employer Circular E, would **NOT** be subject to social security and Medicare (FICA) tax employee withholding or the employer matching contributions. **If the part-time election employee's gross wages exceed $2,500 then the employer (county) would be liable for the total FICA tax liability due for both the employee and employer portion with a combined tax rate of 15.25% beginning with the first dollar of gross wages retroactively**. **If the county anticipates the part-time election employee will earn more than $2,500 for 2026 the employer can withhold employee FICA taxes and make employer matching contributions beginning with the first paycheck.** Due to **2026** having three separate election periods covering more than a combined 6+ weeks it is probable that a part-time election worker who works 40 hours per week x 7 weeks x $10 per hour will earn $2,800. The county should carefully project how many hours part-time election employees will work and their hourly pay rates for **2026**. Conversely, if the county starts the FICA withholding and the employee earns less than **$2,500** the employee would be entitled to a refund. (Footnotes A, C & I)

7. For counties who have elected to participate in the Social Security Administration (SSA) Section 218 Agreement a W-2 must be issued, not a 1099, to utilize the FICA exemption for total gross wages less than **$2,500 for 2026 (adjusted annually)**. See item number 13 for a listing of the 35 Tennessee Counties who have a SSA Section 218 Agreement. (Footnotes A, C & I)

8. If the county is **not** part of the Section 218 agreement, then FICA employee withholding and the employer portion **start with the first dollar of gross earnings**. (Footnotes A & C)

9. For **2026** the county is required to file a **W-2 for gross earnings greater than $2,000 per year** even if no FICA taxes are withheld. However, as a matter of practice counties may issue W-2's for all part-time employees regardless of the amount of gross earnings. (Footnote C)

10. Part-time election employees who are reimbursed for travel mileage or other county expenses are not taxable since all TN counties are required to have a travel policy, or adopt the state travel policy, which both qualify as a reimbursable plan. (Footnote A)

11. **Counties who incorrectly issue 1099s rather than a W-2** to part-time election workers inadvertently shift the county's **FICA tax liability of 6.75%** of gross earnings which results in the worker paying the employer's portion when the employee files their annual individual 1040 tax return. If a 1099 is issued, the gross earnings should be reported on IRS Form 1099-NEC in box 1(a). (Footnote J)

12. To **correct the tax treatment of incorrect 1099 to W-2 employee classification** involves a two-step process:
    a. **Prospective Reclassification**: If not contacted or currently under audit by the IRS, the county can enter the IRS **Voluntary Classification Settlement Program (VCSP),** to reclassify workers going forward. The county pays 10% of the total employment tax liability for the most recent tax year. To qualify you should have filed IRS Form 1099 for the previous three years, and currently not subject to an audit by any federal or state department of labor or tax audit. The county would file **IRS Form 8952**, *Application for Voluntary Classification Settlement Program* at least 120 days prior to the start of treating workers as employees. **The VCSP is not available to governments who are covered under a SSA Section 218 Agreement** as described in items 6 and 7. (Footnotes L & M)
    b. **Current Tax Year:** Reclassify part-time election workers from independent contractors as county employees by completing Form I-9, E-Verify, IRS Form W-4, and setting up each employee in the county's payroll system. For each calendar year, issue a W-2.

13. Listing of the **35 TN Counties** with Social Security Administration (SSA) **Section 218 Agreement as of 1/1/1995**. If other counties have either signed this agreement or are interested in signing, then contact:

    Alison Cleaves, State of Tennessee Social Security Administrator, TN Treasury Department, Legal, Compliance and Audit Division, 502 Deadrick Street, Andrew Jackson Building, 13th Floor, Nashville, TN 37243, 615-741-7902 **alison.cleaves@tn.gov** (Footnote I)

Anderson	Grundy	Lauderdale	Rutherford
Benton	Hardeman	Lewis	Sequatchie
Bledsoe	Hardin	Marshall	Scott
Blount	Hawkins	Maury	Smith
Carroll	Henry	McMinn	Sullivan
Carter	Houston	McNairy	Sumner
Decatur	Humphreys	Montgomery	Trousdale
DeKalb	Jefferson	Obion	Washington
Gibson	Johnson	Putnam	

Footnotes:

A. *IRS Election workers: Reporting and withholding*, 10/8/2025, **https://www.irs.gov/government-entities/federal-state-local-governments/election-workers-reporting-and-withholding**

B. *IRS Worker Classification 101: employee or independent contractor*, 8/2/2022, **https://www.irs.gov/newsroom/worker-classification-101-employee-or-independent-contractor**

C. *IRS Publication #15*, **2026**, (Circular E) Employer's Tax Guide, **https://www.irs.gov/publications/p15**

D. IRS Form W-4, Employee's Withholding Certificate, **2026**, **https://www.irs.gov/forms-pubs/about-form-w-4**

E. U.S. Citizenship and Immigration Services (USCIS), I-9 Central, **https://www.uscis.gov/i-9-central**

F. *New Law Requires All Local Governments to Use E-Verify, TN Public Chapter 772*, **https://publications.tnsosfiles.com/acts/114/pub/pc0772.pdf**

G. *CTAS E-LI Multiple Jobs/Dual Employment*, CTAS-966, **https://www.ctas.tennessee.edu/eli/multiple-jobsdual-employment**

H. *U.S. Department of Labor, Fact Sheet 13: Employment Relationship Under the Fair Labor Standards Act (FLSA)*, **https://www.dol.gov/agencies/whd/fact-sheets/13-flsa-employment-relationship**

I. *Social Security Administration Section 218 Agreements – Election Worker FICA Coverage*, Updated June 2015 **https://www.ssa.gov/slge/election_workers_chart.htm**

J. IRS Form 1099-NEC, **2026**, **https://www.irs.gov/faqs/interest-dividends-other-types-of-income/1099-misc-independent-contractors-and-self-employed/1099-misc-independent-contractors-and-self-employed-3**

K. Mark Goins, Coordinator of Elections TN Secretary of State - Elections Division, 9/29/2026, *Memorandum Implementing 2026 Public Chapter No. 772*

L. Internal Revenue Service, *Voluntary Classification Settlement Program (VCSP)*, Updated September 8, 2026, **https://www.irs.gov/businesses/small-businesses-self-employed/voluntary-classification-settlement-program**

M. Internal Revenue Service, *VCSP Frequently Asked Questions*, Updated October 5, 2023, **https://www.irs.gov/businesses/small-businesses-self-employed/voluntary-classification-settlement-program-vcsp-frequently-asked-questions**