

Samuel B. Williams
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Washington Field Office,
Bureau of Old Age and Survivors Insurance,
1400 Pennsylvania Avenue, N.W.,
Washington, D.C.
ATTN: Mr. Malcolm George

Gentlemen:

As requested of Mr. Warren H. Furner, Jr., of this Agency, the following facts relating to the withholding by the Finance Officer, U. S. Army, of 1½% Social Security tax from the fee checks of Mr. Samuel B. Williams, currently a recipient of Social Security Old-Age Benefits, are forwarded for information:

- a. Mr. Williams retired from the Bell Telephone Laboratories, New York, N.Y., in 1946. At the time of his retirement it was generally accepted that Mr. Williams was one of the world's leading authorities on relays and telephone switching systems. Prior to his retirement and during the war he rendered invaluable service to the military forces of the U. S. in a professional capacity as Senior Engineer on a classified project undertaken for the Army. Since the time of his retirement, and in particular since 1949, Mr. Williams' services as a professional engineering consultant have been made available to various private organizations and Government Agencies.
- b. In April 1952 this Agency, which is engaged in classified work of vital importance to National Defense, urgently needed the expert advice of a Consulting Engineer of Mr. Williams' qualifications in connection with several important research and development problems. Accordingly, an approach was made to Mr. Williams, who at that time was retained by another Government Agency as a part-time consultant, to prevail upon him to serve this Agency in a similar capacity. These efforts were successful and he performed his first service for us on 21 May 1952. Since that time occasion has arisen to call upon Mr. Williams for professional assistance and guidance nearly two days each week.
- c. Prior to completing arrangements with Mr. Williams, members of our Legal and Personnel Staffs examined ways and means of retaining Professional Engineering Con-

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sultants. At least three alternative methods were developed, one of which was not applicable in the case of a retired man with no corporate affiliation (i.e., a Services type contract with the corporation as principal). As between the two which remained there was little choice, excepting that appointment as Professional Consultant on a WAE basis offered certain advantages in administrative simplicity over the use of a Personal Services Contract. Moreover, this Agency had had previous experience with such appointments in the case of younger men which commended the former method. Our Legal Staff advised that payments of fees were specifically exempt from the operation of the withholding provisions of the Social Security Law, citing Section 1426 (a) (7) (c) (v); pp 112-113, "Compilation of Social Security Laws", and this opinion was confirmed by the Washington Field Office, Bureau of Old-Age and Survivors Insurance, Social Security Administration. This point was thoroughly discussed with Mr. Williams, who advised that under his arrangement with the aforementioned Agency he was receiving his gross fee. This Agency undertook to retain Mr. Williams with the specific understandings that (1) Deduction of Social Security tax would not be made, and (2) he was retained on a basis that would not jeopardize his continuing receipt of Old-Age Benefits. At the time when Mr. Williams was sworn in this understanding was reaffirmed to the people of our Civilian Personnel Branch.

- d. On 5 June 1952, Mr. Williams received a retainer check covering two days' services (21 and 22 May) from which had been deducted for Social Security 1/5 of the gross fee. The Personnel Branch upon notification advised that the error would be corrected in subsequent checks. On 19 June, Mr. Williams received his second retainer check and again 1/5 of the gross fee had been deducted for Social Security tax. This action of the Disbursing Office which effectively nullified the agreement with Mr. Williams was supported by the statement that Army Regulations (to which this Agency must conform in personnel matters) specifically require that persons retained in a WAE status be treated in respect of Social Security Tax as temporary employees. When the previously mentioned section of the "Compilation of Social Security Laws" was cited as precluding such taxation, Procedures and Policies Branch of the Department of the Army advised that the Department is unable to construe resistances to personnel retained on a WAE basis as "fees" and that accordingly the Army Regulation requiring deduction of Social

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Security tax from wages of temporary employees governs.

In view of the fact that this Agency has at no time intended to employ Mr. Williams on a salary or wage basis, and in view of the fact that the arrangement was entered into in good faith with the understanding that the services desired were solely of a professional consultation nature and with the further understanding that fees paid would be exempt from the normal operation of the Social Security Laws in accordance with the previously cited section thereof, and in view of the fact that it was the understanding of both parties that the arrangement would in no way jeopardize Mr. Williams' status as an Old-Age beneficiary, this Agency is most anxious to see to it that Mr. Williams' beneficiary rights be protected. Should he lose such rights owing to the operation of the Army fiscal regulations, his services would be lost to this Agency at damaging cost.

Should it be determined by the appropriate officer of the Social Security Administration that Mr. Williams' continued retention on this basis would jeopardize his status as beneficiary of Old-Age Insurance, it will be necessary for this Agency to terminate the present arrangement, with consequent serious adverse affect on our program.

Pending final decision of Mr. Williams' case, this Agency is proceeding to initiate an alternative arrangement which under Army Regulations would be exempt from the operation of the withholding provisions of the Social Security Laws. The date on which these arrangements can be completed cannot be anticipated, but they are expected to require six or eight weeks. Meanwhile Mr. Williams' services are badly needed in furtherance of the National Defense effort.

Thank you kindly for your consideration of this matter. If we can be of any assistance in supplying additional data please do not hesitate calling upon us.

Sincerely,

(sgd) Alfred R. Mancy

ALFRED R. MANCY
Colonel, Signal Corps
Chief of Staff

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Orig. by: Mr. W. H. Turner, Jr./ula/25 June 1952
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