

## UNIVERSITY OF HOUSTON

**SUBJECT:** Student Social Security Tax Withholding Exemption

**SOURCE:** Internal Revenue Code Section 3121(b)(10), IRS Regulations and Publications; Social Security Administration; U.S. Department of Education Title IV Rules

**FICA TAX CHANGE:** During 1999, the State of Texas modified its Section 218 Agreement with the Social Security Administration. As a result, the services of qualified student employees at specified Texas public colleges and universities are exempt from withholding Social Security and Medicare taxes (FICA) if such service is performed by a student who is enrolled and regularly attending classes at such college or university.

**UNIVERSITY POLICY:** Due to the change in this agreement and in accordance with federal tax law, the University of Houston (the "University") shall grant an exemption from FICA tax withholding on wages paid to a student during an academic semester or summer session in which that student is enrolled and regularly attending classes at the University.

**Enrolled and Regularly Attending Classes** – A student is considered to be enrolled and regularly attending classes if enrolled at least half-time, i.e. fifty percent (50%), of the minimum number of hours required for full-time enrollment certification purposes. Minimum exemption thresholds for each campus will be as follows:

Semester / Term	Course Load Status Classification	Campus			
		Victoria	Main	Clear Lake	Downtown
Fall or Spring	GR *	5	5	3	6
	UG ** & PB *** (Note 1)	6	6	6	6
Summer	GR	2	2	2	2
	UG & PB	3	3	3	3

(Note 1 - \* Graduate Student. \*\* Undergraduate Student. \*\*\* Post Baccalaureate Student)

**Between Semesters** – Student employees who are enrolled and regularly attending classes in a given academic semester/session will be afforded the exemption from FICA tax withholding for any brief period of time (five weeks or less) between the end of one semester/session and the start of the succeeding semester/session, if they qualified for the exemption in the immediately preceding semester/session. For example, a student enrolled during the last summer session would retain the exemption during the period between the last summer session and the start of the fall semester, as well as during Christmas break, etc.

**Full-Time Employees** – All non-students and/or full-time employees of the University are not eligible for the student FICA exemption.

**Social Security Number** – In order to be exempted from FICA tax withholding, a student employee must provide their valid Social Security Number to the University.

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**No FICA Tax Refund by University for the Student FICA Exemption-** Usually, the University's Payroll Department does not refund FICA taxes, even if the taxes were mistakenly deducted (e.g. failure to provide a valid Social Security Number, the effect of dropping/adding courses and the determination of credit hours at the beginning of the semester, etc...). However, to request a refund from the Internal Revenue Service, the student employee could file Form 843 (at website [www.irs.gov/Forms-&Pubs](http://www.irs.gov/Forms-&Pubs) or by telephone at (800) 829-3676). For Form 843, the University's employer identification number is **74-6001399**, and FICA taxes are considered "Employment" taxes (Line 3 – Type of tax or fee). This page of University policy should be attached to Form 843 as proof that the University will not refund any FICA taxes with regard to the Student FICA Exemption.

**VISA FICA  
EXEMPTION  
FOR  
FOREIGN  
NATIONALS:**

In addition to the Student FICA Exemption, only Nonresident Aliens may also be exempt from FICA tax withholding based upon their visa type. An F-1 visa holder may be exempt for 5 "calendar" years (not 60 months) from the year they first arrived in the United States. This rule also applies for J-1 visa holders for 2 "calendar" years (not 24 months). This page of University policy, along with IRS Form 8316, should be attached to Form 843 as proof that the University will not refund any FICA taxes with regard to the student FICA exemption and/or the visa FICA exemption. For further instructions on which documents to attach and where to file, see attached excerpt from IRS Publication 519.

means that there will be no withholding of social security or Medicare taxes from the pay you receive for these services. These types of services are very limited, and generally include only on-campus work, practical training, and economic hardship employment.

Social security and Medicare taxes will be withheld from your pay for these services if you are considered a resident alien as discussed in chapter 1, even though your nonimmigrant classification ("F," "J," "M," or "Q") remains the same.

Services performed by a spouse or minor child of nonimmigrant aliens with the classification of "F-2," "J-2," "M-2," and "Q-3" are covered under social security.

### Nonresident Alien Students

If you are a nonresident alien temporarily admitted to the United States as a student, you generally are not permitted to work for a wage or salary or to engage in business while you are in the United States. In some cases, a student admitted to the United States in "F-1," "M-1," or "J-1" status is granted permission to work. Social security and Medicare taxes are not withheld from pay for the work unless the student is considered a resident alien.

**TIP** Any student who is enrolled and regularly attending classes at a school may be exempt from social security and Medicare taxes on pay for services performed for that school.

The U.S. Citizenship and Immigration Services (USCIS) permits on-campus work for students in "F-1" status if it does not displace a U.S. resident. On-campus work means work performed on the school's premises. On-campus work includes work performed at an off-campus location that is educationally affiliated with the school. On-campus work under the terms of a scholarship, fellowship, or assistantship is considered part of the academic program of a student taking a full course of study and is permitted by the USCIS. Social security and Medicare taxes are not withheld from pay for this work unless the student is considered a resident alien.

If services performed by a nonresident alien student are not considered as performed to carry out the purpose for which the student was admitted to the United States, social security and Medicare taxes will be withheld from pay for the services unless the pay is exempt under the Internal Revenue Code.

### Exchange Visitors

Exchange visitors are temporarily admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act. Social security and Medicare taxes are not withheld on pay for services of an exchange visitor who has been given permission to work and who possesses or obtains a letter of authorization from the sponsor unless the exchange visitor is considered a resident alien.

If services performed by an exchange visitor are not considered as performed to carry out the purpose for which the visitor was admitted to the United States, social security and Medicare taxes are withheld from pay for the services unless the pay is exempt under the Internal Revenue Code.

Nonresident aliens temporarily admitted to the United States as participants in international cultural exchange programs under section 101(a)(15)(Q) of the Immigration and Nationality Act may be exempt from social security and Medicare taxes. The employer must be the petitioner through whom the alien obtained the "Q" visa. Social security and Medicare taxes are not withheld from pay for this work unless the alien is considered a resident alien.

### Refund of Taxes Withheld in Error

If social security or Medicare taxes were withheld in error from pay that is not subject to these taxes, contact the employer who withheld the taxes for a refund. If you are unable to get a full refund of the amount from your employer, file a claim for refund with the IRS on Form 843. Attach the following items to Form 843.

- A copy of your Form W-2 to prove the amount of social security and Medicare taxes withheld.
- A copy of your visa.
- Form I-94 (or other documentation showing your dates of arrival or departure).
- If you have an F-1 or J-1 visa, documentation showing permission to work in the United States.
- If you are engaged in optional practical training or employment due to severe economic necessity, documentation showing permission to work in the United States.
- A statement from your employer indicating the amount of the reimbursement your employer provided and the amount of the credit or refund your employer claimed or you authorized your employer to claim. If you cannot obtain this statement from your employer, you must provide this information on your own statement and explain why you are not attaching a statement from your employer or on Form 8316 claiming your employer will not issue the refund.
- If you were exempt from social security and Medicare tax for only part of the year, pay statements showing the tax paid during the period you were exempt.

File Form 843 (with attachments) with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201-0038.



**Do not use Form 843 to request a refund of Additional Medicare Tax. If Additional Medicare Tax was withheld from your pay in error, you can claim a credit for any withheld Additional Medicare Tax against the total tax liability shown on your tax return by filing Form 8959 with Form 1040 or 1040NR. If Additional Medicare Tax was withheld in error in a prior year for which you already filed Form 1040 or 1040NR, you must file Form 1040X for**

the prior year in which the wages or compensation were originally received to recover the Additional Medicare Tax withheld in error. See the Instructions for Form 1040X.

### Agricultural Workers

Agricultural workers temporarily admitted into the United States on H-2A visas are exempt from social security and Medicare taxes on compensation paid to them for services performed in connection with the H-2A visa. You can find more information about not having tax withheld at [IRS.gov/Individuals/International-Taxpayers/Foreign-Agricultural-Workers](https://www.irs.gov/Individuals/International-Taxpayers/Foreign-Agricultural-Workers).

### Self-Employment Tax

Self-employment tax is the social security and Medicare taxes for individuals who are self-employed. Nonresident aliens are not subject to self-employment tax unless an international social security agreement in effect determines that they are covered under the U.S. social security system. Residents of the U.S. Virgin Islands, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa are considered U.S. residents for this purpose and are subject to the self-employment tax.

Resident aliens must pay self-employment tax under the same rules that apply to U.S. citizens. However, a resident alien employed by an international organization, a foreign government, or a wholly-owned instrumentality of a foreign government is not subject to the self-employment tax on income earned in the United States.

Self-employment income you receive while you are a resident alien is subject to self-employment tax even if it was paid for services you performed as a nonresident alien.

**Example.** Bill Jones is an author. Bill had several books published in a foreign country while he was a citizen and resident of that country. During 2017, Bill entered the United States as a resident alien. After becoming a U.S. resident, he continued to receive royalties from his foreign publisher. Bill reports his income and expenses on the cash basis (he reports income on his tax return when received and deducts expenses when paid). Bill's 2017 self-employment income includes the royalties received after he became a U.S. resident even though the books were published while he was a nonresident alien. This royalty income is subject to self-employment tax.

**Reporting self-employment tax.** Use Schedule SE (Form 1040) to report and figure your self-employment tax. Then enter the tax on Form 1040, line 57, or Form 1040NR, line 55. Attach Schedule SE to Form 1040 or Form 1040NR.

**Additional Medicare Tax.** Self-employed individuals must pay a 0.9% (0.009) Additional Medicare Tax on self-employment income that exceeds one of the following threshold amounts (based on your filing status).

- Married filing jointly — \$250,000,