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:

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<tr>
<th>Course Load Status</th>
<th>Campus</th>
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<tbody>
<tr>
<td></td>
<td>Victoria</td>
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<tr>
<td>Fall or Spring</td>
<td>GR *</td>
</tr>
<tr>
<td></td>
<td>UG ** &amp; PB ***</td>
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<tr>
<td>(Note 1)</td>
<td></td>
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<tr>
<td>Summer</td>
<td>GR</td>
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<td>UG &amp; PB</td>
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(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.

(Continued)
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 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.
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 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)(G) 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. Showing permission to work in the U.S. and Medicare taxes are 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 Internal Revenue Service on Form 843, Claim for Refund and Request for Abatement. 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 visa, documentation showing permission to work in the U.S.
- If you have a J-1 visa, documentation showing permission to work in the U.S.
- If you are engaged in optional practical training or employment due to severe economic necessity, documentation showing permission to work in the U.S.
- 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 any 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 84201-0058.

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 8859 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, Amended U.S. Individual Income Tax Return, 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 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 engaged in the business of writing books. Bill had several books published in a foreign country while he was a citizen and resident of that country. During 2014, 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 2014 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% 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;
- Married filing separately — $125,000;
- Single, Head of household, or Qualifying widow(er) — $200,000.

If you have both wages and self-employment income, the threshold amount for applying the Additional Medicare Tax on the self-employment income is reduced (but not below zero) by the amount of wages subject to Additional Medicare Tax. A self-employment loss should not be considered for purposes of this tax.

If you file Form 1040NR, you must pay Additional Medicare Tax if the total of your wages and your self-employment income was more than $125,000. If married (Box 3, 4, or 5 on page 1 of Form 1040NR), or $200,000 if single or qualifying widow(er) (Box 1, 2, or 6 on page 1 of Form 1040NR).

See Form 8859, Additional Medicare Tax, and the Instructions for Form 8859 to determine whether you are required to pay Additional Medicare Tax. For more information on Additional Medicare Tax, go to IRS.gov and enter “Additional Medicare Tax” in the search box.

Deduction for employer-equivalent portion of self-employment tax. If you must pay self-employment tax, you can deduct a portion of the self-employment tax paid in figuring your adjusted gross income. This deduction is figured on Schedule SE (Form 1040).

Note. No portion of the Additional Medicare Tax is deductible for self-employment tax.


International Social Security Agreements

The United States has entered into social security agreements with foreign countries to coordinate social security coverage and taxation of workers employed for part or all of their working careers in one of the countries. These agreements are commonly referred to as totalization agreements. Under these agreements, dual coverage and dual contributions (taxes) for the same work are eliminated. The agreements generally make sure that social security taxes (including self-employment tax) are paid only to one country. Agreements are in effect with the following countries:
- Austria
- Belgium
- Canada
- Chile
- Czech Republic
- Denmark
- Finland
- France
- Sweden
- Switzerland
- and others.