

FICA EXEMPTION RULES

Student FICA Exemption:

FICA taxes do not apply to payments received by students employed by a school, college, or university where the student is pursuing a course of study. To qualify, students must be enrolled at least half time in the semester in which the wages were earned. An examination of the student's primary relationship with UMD will be made to determine if employment or education is predominant in the relationship.

International Student & Scholar FICA Exemption:

International students, scholars, professors, teachers, trainees, researchers, physicians, summer camp workers, and other aliens temporarily present in the United States in F-1, J-1, M-1, or Q-1/Q-2 nonimmigrant status are exempt from FICA taxes on wages as long as such services are allowed by USCIS and have not passed their substantial presence test to become a resident alien for tax purposes.

Employment includes on-campus student employment up to 20 hours a week (40 hrs during the summer) and employment as professor, teacher or researcher.

J-1 Scholars, Teachers, Researchers, Trainees and Physicians and other non-students in J-1 status are considered NRA (Non-Resident Alien) for tax purposes and exempt from FICA taxes for the first two calendar years of their presence in the USA. After their second calendar year period, they will become a resident alien for tax purposes and subject to FICA withholding unless they depart the USA in less than 183 days into their 3rd calendar year.

Limitations on FICA Exemption for International Persons:

- The FICA exemption does not apply to spouses and children in F-2, J-2, M-2, or Q-3 nonimmigrant status.
- The exemption does not apply to employment not allowed by USCIS or to employment not closely connected to the purpose for which the visa was issued.
- The exemption does not apply to F-1, J-1, M-1, or Q-1/Q-2 nonimmigrants who change to an immigration status that is not exempt or to a special protected status.
- The exemption does not apply to F-1, J-1, M-1, or Q-1/Q-2 nonimmigrants who become resident aliens.
- The FICA exemption only applies to international persons in F-1, J-1, M-1, Q-1, or Q-2 visas and who are still classified as nonresident aliens for tax purposes under US tax regulations.

- International students in F-1, J-1, M-1, Q-1 or Q-2 nonimmigrant status are entitled to the FICA exemption for the first 5 calendar years of physical presence in the USA. After this period has passed, international students are classified as Resident Aliens for Tax Purposes and are subject to FICA tax withholding. However, if they remain students enrolled half time or more, they may still be eligible to receive the FICA exemption.
- The five-year exemption permitted to F-1, J-1, M-1, Q-1 or Q-2 students also applies to any period in which the international student is in "practical training" allowed by USCIS, if the foreign student is still classified as a nonresident alien for tax purposes.
- International persons in H-1B, TN, O-1 or E-3 status are fully subject to FICA tax withholding. No FICA exemption is available to persons in these visa categories.

Measuring a Calendar Year:

When measuring an alien's date of entry for the purposes of determining the five calendar years or the two calendar years mentioned above, the actual date of entry is not important. It is the calendar year of entry which is counted toward the two or five calendar years respectively. For example, a foreign student who entered the United States on Dec. 31st of the given year. That given year counts as the first of their five years as an "exempt individual."

FICA Exemption Resources:

[Student FICA exception | Internal Revenue Service](#)

[Foreign student liability for Social Security and Medicare taxes | Internal Revenue Service](#)