

# **Financial Services Manual (FIN)**

## **FIN 601: Student FICA Tax Exemption**

Effective: 11/1/2010

Revised: 9/12/2011

### **Purpose**

To provide guidelines for determining when student wages are eligible for the exemption from FICA tax

### **Sources**

Internal Revenue Code § 3121(b)

Revenue Procedure 2005-11

University policy

### **Applicability**

The Internal Revenue Code (IRC) provides an exemption from FICA (Federal Insurance Contributions Act) taxes to enrolled students who are employed by Arizona State University and whose employment is incidental to their pursuit of a degree. For discussion purposes, the term FICA will be used to identify the two portions of the tax: Social Security and Medicare.

This policy does not cover career employees who may take courses or pursue a degree while employed by Arizona State University.

The Student FICA Tax Exemption applies to wages earned by certain students who are enrolled and regularly attending classes in pursuit of a course of study. The educational aspect of the relationship between the university and the student-employee must be predominant in order for the student-employee's services to be considered incidental to, and for the purpose of, pursuing a course of study and therefore, the services are eligible for the Student FICA Tax Exemption.

Student-employees include both undergraduates and graduates. The university will treat teaching assistants, research assistants/associates, and graduate assistants/associates (RAs/TAs) as student-employees and therefore eligible for the Student FICA Tax Exemption under the facts and circumstances test—provided that the student-employee's normal work schedule is less than 40 hours per pay period (includes the sum of multiple positions, if applicable.)

Postdoctoral students and postdoctoral fellows are specifically excluded from eligibility for the Student FICA Tax Exemption under federal tax law. When ineligible for the Student FICA Tax Exemption, Social Security tax is withheld at a rate of 6.2% and Medicare tax is withheld at a rate of 1.45% for a total of 7.65% FICA tax withholding.

Non-resident aliens (NRAs) follow the "International Students and Scholars and the FICA Tax Exemption Rules."

### **Policy**

Revenue Procedure 2005-11 provides administrable mechanisms ("safe harbors") whereby certain students can qualify for the Student FICA Tax Exemption. The university will make determinations of student FICA tax exemptions based upon the safe harbor guidelines outlined in the Revenue Procedure 2005-11 (<http://www.irs.gov/irb/2005->

[02\\_IRB/ar16.html](#)). Those student-employees who meet these safe harbor guidelines will be treated as exempt from FICA taxes, while those student-employees who do not meet these guidelines will be subject to FICA taxes on their wages.

## Procedures

### Qualifications

To qualify for the Student FICA Tax Exemption, the student-employee must meet **all three** of the following criteria:

#### 1. Enrollment

An individual must be enrolled and regularly attending class as at least a half-time undergraduate student or a half-time graduate student to qualify for the Student FICA Tax Exemption. The Student FICA Tax Exemption applies to the session for which the student is enrolled. Enrollment is verified each session and the FICA tax is adjusted accordingly based upon actual enrollment hours.

Minimum enrolled credit hours to qualify for the exemption are as follows:

Status	Fall/Spring Semesters	5-Week Summer Session	8-Week Summer Session
Undergraduate	6 or more credit hours	2 or more credit hours	3 or more credit hours
Graduate	5 or more credit hours	2 or more credit hours	3 or more credit hours
RA/TA	3 or more credit hours	1 or more credit hour(s)	2 or more credit hours

For school breaks of more than five weeks, the Student FICA Tax Exemption is not available for wages earned during that period.

If a student-employee is hired after enrollment is verified for the applicable term, the student-employee must complete the [Student FICA Tax Exemption form](#) and submit it with the New Hire paperwork to Financial Services-Payroll Services.

#### 2. Employment Status

A student must be employed in a position that is considered to be incident to, and for the purpose of, pursuing a course of study and that is a noncareer, nonbenefits-eligible position.

#### 3. Scheduled Hours

A student-employee's normal work schedule must be less than 40 hours per week, which includes the sum of multiple positions, if applicable.

To request a refund of student FICA taxes withheld, please complete the [Employee Request for Refund of FICA Taxes form](#) and submit the form to Payroll Services.

### International Students and Scholars and the FICA Tax Exemption Rules

Under Section 3121(b)(19) of the Internal Revenue Code, students temporarily present in the U.S. on F-1, J-1, M-1 and Q-1 visas are usually exempt from FICA taxes as long as they are nonresidents for income tax purposes under section 7701(b) of the IRS tax code. This exemption applies to wages paid to them for services performed within the U.S. as long as such services are allowed under immigration laws and are "performed to carry out the purposes for which such visas were issued to them." This FICA tax exemption applies to the following:

- F-1 and J-1 student visa holders for the first five calendar years
- J-1 scholars (including teachers, professors, researcher, and alien physicians) visa holders for the first two calendar years.

This FICA tax exemption **does not** apply to the following:

- Spouse and children on F-2, J-2, M-2, and Q-2 visas
- Nonresident aliens who have become resident aliens for tax purposes (Internal Revenue Code section 7701(b))
- Nonresident aliens who have changed to any visa status other than F-1, J-1, M-1, or Q-1 status.

For international students, the FICA tax exemption rules per the Internal Revenue Code use the period from January 1 to December 31 as opposed to 12 consecutive months. Therefore, no matter what part of the year the F-1 or J-1 visa holder originally entered the country, the year is counted as a full calendar year when determining this exemption from FICA taxes