

Student FICA Exemption

These Implementation Guidelines describe A&M System policy and procedures governing the student exemption from Federal Insurance Contributions Act (FICA) taxes provided under section 3121(b)(10) of the Internal Revenue Code (Code). The Guidelines also incorporate guidance published by the Internal Revenue Service (IRS) on January 16, 1998 for determining whether services performed by students are eligible for student FICA exemption (Revenue Procedure 98-16). In addition, a Question and Answer section is included, which addresses numerous issues related to the administration of the student exemption.

Under section 3121(b)(10) of the Code, services performed by a student in the employ of a college or university are generally exempt from Social Security (OASI) and Medicare, the two components of the FICA tax, provided that the student is "enrolled and regularly attending classes."

The IRS interpretation of this section, as set forth in Rev. Proc. 98-16, provides that a student employee will be exempt from FICA taxes if the student is enrolled at least half-time, in accordance with the regulations issued by the Department of Education. In addition, no limit is imposed on the number of hours a student may work for the college or university and still qualify for the FICA exemption.

The following additional requirements are contained in the IRS guidelines:

- If a student is enrolled less than half-time, the student may still be eligible if the student is in the last semester or quarter of a course of study, and is enrolled in the number of hours needed to complete the requirements for obtaining a degree.
- The student FICA exception is not applicable to career employees (e.g., TRS/ORP members).
- The exception applies to all services performed during all payroll periods of a month or less that fall wholly or partially within the academic term.
- The exception does not apply to services performed by a student during school breaks of more than five weeks.

Withholding Procedures

Students employed by the A&M System (who are not members of TRS/ORP) must be enrolled at least half-time, as defined under the Department of Education regulations, to qualify for the FICA exception. Student employees not enrolled at least half-time must contribute to OASI and to Medicare unless the student is in the last semester or quarter of a course of study **and** enrolled in the number of hours needed to complete the requirements for obtaining a degree, certificate, or other recognized credential offered by the University.

1. Minimum Number of Hours - Undergraduate Students

To be considered exempt from withholding, undergraduate students must be enrolled at least half-time, in accordance with the Department of Education regulations. Department of Education regulations state that half-time is as defined by each campus in the undergraduate course catalogue.

2. Minimum Number of Hours - Graduate Students

The minimum number of hours required for a graduate student to be exempt from withholding is based upon the half-time enrollment requirements established at each campus and published in the graduate course catalogue.

3. Work Requirement

No limit is imposed on the number of hours a student may work and be eligible for the exemption from withholding.

4. Summer Employment

A student employed during the summer is exempt from withholding if the student is taking the minimum number of hours established for the Summer Session as published in the course catalogue.

5. Employment During Intersession and Breaks

A student is exempt from withholding during intersession and break periods of 5 weeks or less as long as the student is otherwise eligible for the exception on the last day of classes in the academic period preceding the break and is eligible to enroll. The last day of classes will be the last day of finals.

6. Final Semester for **Texas A&M University and Texas A&M University Galveston**

If a student is in the last semester or quarter of a course of study **and** enrolled in the number of hours needed to complete the requirements for obtaining a degree, certificate, or other recognized credential offered by the University, the student will be eligible for the FICA exemption. The student must submit to Tax Compliance & Reporting a letter from the Registrar's office certifying the number of hours he/she is enrolled during their last semester or quarter of a course of study. This exception will only be granted once per academic level (BA, MS, Ph.D.).

7. Final Semester for all other Texas A&M University System Parts

If a student is in the last semester or quarter of a course of study **and** enrolled in the number of hours needed to complete the requirements for obtaining a degree, certificate, or other recognized credential offered by the University, the student will be eligible for the FICA exemption. The student must file a request for the exemption with the student employment office, which will then notify the Payroll Office. This exception will only be granted once per academic level (BA, MS, Ph.D.).

Campus requests for exceptions to these procedures must be submitted to the designated financial officer for approval.

Questions and Answers

This section presents a series of questions and answers related to the administration of the student FICA withholding process.

1. General Eligibility Questions

A) Will hours taken through Continuing Education be counted toward the minimum hour requirement?

No. Courses taken through Continuing Education will not be counted toward the minimum hours required, unless a campus provides credit for these courses toward a degree. If this is the case, the campus should ensure that these hours are reflected on the Student Information System (SIS) interface file (see section 4).

B) Will graduate students advanced to candidacy for a masters degree be exempt from the minimum hours requirement?

No. The exception from FICA withholding for students advanced to candidacy applies only to graduate students who are preparing a doctoral dissertation.

C) Will graduate students on filing fee status be considered as qualifying for advancement to candidacy, and therefore, exempt from the minimum hours requirement?

No. The filing fee is restricted to students who have completed the writing of their dissertation and only need the dissertation approved by their doctoral committee. Students on filing fee status are not considered to be registered students.

D) Will graduate students who are taking qualifying exams be considered eligible for the FICA exception?

Yes, if they are registered for the minimum number of hours.

E) If a career employee (i.e., TRS/ORP member) enrolls in classes at the University, can the employee become exempt from FICA if he is taking the minimum required course load?

No. The employee would continue to pay FICA taxes.

If an employee, who is a member of TRS/ORP, has a bona fide break in service and is rehired as a non-budgeted employee, the non-budgeted employee may be exempt from FICA withholding if enrolled in the minimum required course load.

F) Is a student who is employed at one TAMUS campus and attending classes at another TAMUS campus entitled to the FICA exception?

For FICA exemption purposes, TAMUS is considered to be a single entity. BPP will match up students against the databases of other campuses to determine if the student is eligible for the FICA exemption. Such a student will qualify for the FICA exemption if taking the required number of hours, and if the student provides the student employment office (or other designated office) with proof of registration. If the minimum number of hours required for the exception differs at the two locations, the minimum number of hours required by the employing campus would be applicable.

G) Is a student employed by a TAMUS university entitled to the FICA exemption if he is attending classes at a non-TAMUS university or college?

No. The IRS regulations provide that the student exemption from FICA applies only to an employee who is enrolled and regularly attending classes at the same school, college, or university at which he is employed.

H) Will students with F-1 or J-1 visas who are nonresident aliens still be exempt from FICA?

Yes. Nonresident alien employees with F-1 or J-1 visas, regardless of their course load will be eligible for the exemption from FICA. However, alien employees who hold F-1 or J-1 visas, but who are no longer eligible for the FICA exception because of their resident alien status, are subject to withholding. These employees are eligible for the FICA exception only if they are carrying the minimum course load.

I) Enrolled vs. Registered –Rev. Proc. 98-16 states that a student who is eligible to enroll for the next semester continues to be exempt during breaks of 5 weeks or less. If a student is blocked from registration because they owe the institution money, are they still exempt?

No, for purposes of FICA exemption if a student is not eligible to register, they would not be considered eligible to enroll. Therefore, the exemption does not apply.

2. Course Load Questions

A) Will students enrolled in a summer session be required to take the same number of hours required during the academic year to qualify for the FICA exception?

Under the IRS guidelines, to be considered exempt from withholding, undergraduate students must be enrolled at least half-time, in accordance with the Department of Education regulations. Department of Education regulations state that half-time is as defined by each campus in the undergraduate course catalogue for the academic year and summer session.

The minimum number of hours required for a graduate student is based upon the half-time enrollment requirement established at each campus. In general, each campus has established separate hours requirements for graduate students enrolled during the academic year and summer session.

B) If a student is in his last term prior to graduating, and is enrolled in less than the required number of hours, is he still eligible for the FICA exception?

Yes, if the student is in the last semester or quarter of a course of study **and** enrolled in the number of hours needed to complete the requirements for obtaining a degree, certificate, or other recognized credential offered by the University:

TAMU & TAMUG

The student must submit to Tax Compliance & Reporting a letter from the Registrar's office certifying the number of hours he/she is enrolled during their last semester or quarter of a course of study.

All other TAMUS Parts

The student must file a request for the exemption with the student employment office, which will then notify the Payroll Office.

This exception may only be granted once per academic level (BA, MS, Ph.D.).

3. Tax Questions

A) What is Social Security (OASI)?

Social Security is a federal program that provides benefits for retirees, the disabled, and children of deceased workers.

B) What is Social Security (OASI) tax rate?

6.2% on taxable wages

C) What is Medicare (OAH)?

Medicare is the Federal health insurance program administered by the Social Security Administration. The program is designed for individuals entitled to Social Security who are age 65 or older (younger individuals can also qualify, e.g., those receiving Social Security disability benefits).

D) What is Medicare (OAH) tax rate?

1.45% on taxable wages of \$200,000 and less

2.35% on taxable wages above \$200,000

E) What is FICA?

FICA stands for "Federal Insurance Contributions Act." It's the tax withheld from your salary that funds the Social Security and Medicare programs.

4. Payroll/Personnel System and Student Information System Interface Questions

A) How will Student Type and Number of Hours data stored in SIS be matched with a student employee's payroll/personal data?

The information from SIS will be matched against BPP information, based on the student employee's social security number.

B) How often will the SIS interface occur?

The interface file is produced before each payroll to determine if the student employee is carrying the appropriate number of hours for the term.

C) What will happen if a student employee adds or drops classes after the interface has been run?

The change in the student employee's number of hours will not be reflected in BPP until the next interface file is produced, unless the student employee reports the change to his department and the student employment office updates the student employee's BPP record.

D) Will the interface be run during the summer session?

Yes. Students will be matched against the enrollment file in the same manner as fall and spring sessions.

5. Other Administrative Questions

A) If the SIS interface file report fewer hours than the student's actual enrollment and FICA is withheld, will the student automatically receive a payroll adjustment when the number of hours is updated?

No. The workstation must process a payroll adjustment. Local procedures for making such adjustments will determine the timing of the payroll adjustment for any incorrect deductions.

B) What will happen if a student employee is subject to withholding but no withholding occurred? Will the student be subject to a retroactive adjustment?

In general, adjustments related to course load changes will be made only on a prospective basis; however, retroactive adjustments may be used to correct administrative errors, e.g., to correct the student status code on BPP.

The A&M System Member is liable for the employer share of FICA and is responsible for making adjustments to correct errors for any pay period that falls within the statute of limitations for FICA adjustments (3 years, 3 months, and 15 days).

C) Who should the student employee contact if she feels she is entitled to a payroll adjustment due to an administrative error?

The student employee should contact her student employment office who will then follow internal procedures for correcting the error.

D) Does the FICA exception apply during intersession breaks?

Yes. The exception continues during normal school breaks of 5 weeks or less, provided the student is otherwise eligible for the exception on the last day of classes preceding the break and is eligible to enroll in classes in the academic period following the break.