



## **Policy 2.11**

### **FICA for Student Employees and Foreign Nationals**

**Responsible Official:** Vice President for Finance/Chief Finance Officer

**Administering Division/Department:** Payroll

**Effective Date:** January 01, 2008

**Last Revision:** July 31, 2013

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#### **Overview**

This policy provides guidelines for FICA (Federal Insurance Contributions Act) exemption for student employees and foreign national individuals.

#### **Applicability**

Student employees and foreign national individuals.

#### **Policy Details**

##### **2.11.1 Student Employee Payroll Policy and the Internal Revenue Service Code**

The Internal Revenue Service (IRS) exempts students enrolled and regularly attending classes from being required to pay FICA tax (also known as Social Security Tax). The services that exempt students perform for the University must be directly related to and for the purpose of pursuing a course of study.

##### **2.11.2 FICA Exemption Eligibility**

To be exempt from FICA during the fall, spring, or summer semesters, both undergraduate and graduate students must be enrolled for a minimum of six semester hours in that semester. An exception to this rule is granted for students who need fewer semester hours to graduate.

When classes are not in session, a student who has been working less than or equal to one month, either before or after an academic term, is exempt from FICA withholding.

Students must be enrolled at Emory University. Students enrolled at other institutions are not eligible for the FICA exemption for employment at Emory University.

The Payroll Department and the student information system will be compared during the course of each semester to ensure that student employees are enrolled for the required number of semester hours. Student employees who do not meet the requirement will have their FICA status changed, unless there are special circumstances.

##### **2.11.3 Full-time Employees Ineligible for FICA Exemption**

Faculty and staff employees are not eligible for the FICA exemption regardless of the number of hours for which they are enrolled as students. Salaried employees are primarily employees and not students; their presence at the University is for employment, not study.

#### 2.11.4 Changing Status of Persons Ineligible for FICA Exemption

Student employees found to be ineligible for the FICA exemption fall into two categories, and their status determines how they are handled.

##### 2.11.4.1 Student Employees Who Do Not Meet the Criteria for FICA Exemption

These students remain as student employees, but their FICA status must be changed.

##### 2.11.4.2 Student Employees Who Are No Longer Enrolled or Who Never Were Emory University Students

This situation can occur when a student drops out of school, or when a student of another institution is erroneously hired as a student employee although they are not eligible for such employment. The employment of the student employee in this situation must be terminated. Rehiring these persons must be through the normal University Human Resources hourly wage employee hiring process.

#### 2.11.5 Foreign National Individuals

Employees who are non-residents for tax purposes are exempt from FICA in certain circumstances, depending on visa type and how long the person has been in the United States. Generally, an F-1 or J-1 student is exempt for the first five calendar years (or any part of a calendar year). J-1 scholars are normally exempt for two calendar years (or any part of a calendar year), if the scholar has been in the United States for less than two of the past six calendar years.

All other international employees are subject to FICA withholding.

All international students and scholars visiting the University with a non-immigrant visa (generally F, J, H, O, or TN) who will be receiving any payment for services on campus must complete a questionnaire and schedule an appointment to determine the status of FICA withholding as well as federal and Georgia income tax liability.

In many cases, some or all income tax (limited either by dollar amount or time spent in the United States) may be exempt based on treaties the United States has in place with other countries. This process begins with the online submission of immigration information to the Office of the Controller where residency status (FICA) and treaty eligibility (income tax) are verified. The individual must first contact the Office of the Controller to obtain a password allowing access to a secure website in order to complete the questionnaire. Until this process is complete, income tax and FICA tax will be withheld at the maximum amount. Income taxes withheld, prior to consulting with a tax specialist and completion of the appropriate forms, cannot be refunded by the University.

The laws covering taxation of non-residents are lengthy and complex. Information can be found through the IRS website or by calling 1-800-TAX-FORM.

#### Definitions

*FICA (Federal Insurance Contributions Act):* Tax by the federal government, also commonly referred to as Social Security Tax. Students may be exempt from paying FICA as part of their payroll taxes.

#### Related Links

- Current Version of This Policy: <http://policies.emory.edu/2.11>
- [Internal Revenue Service](http://www.irs.gov): (<http://www.irs.gov>)
- [Payroll Department](https://www.finance.emory.edu/home/payroll/index.html): (<https://www.finance.emory.edu/home/payroll/index.html>)
- [Human Resources](http://www.hr.emory.edu/eu/): (<http://www.hr.emory.edu/eu/>)
- [Office of the Controller](https://www.finance.emory.edu/home/accounting_svc/index.html): ([https://www.finance.emory.edu/home/accounting\\_svc/index.html](https://www.finance.emory.edu/home/accounting_svc/index.html))
- [IRS Publication 515 Withholding of Tax on Non-resident Aliens](http://www.irs.gov/pub/irs-pdf/p515.pdf): (<http://www.irs.gov/pub/irs-pdf/p515.pdf>)
- [IRS Publication 519 U.S. Tax Guide for Aliens](http://www.irs.gov/pub/irs-pdf/p519.pdf): (<http://www.irs.gov/pub/irs-pdf/p519.pdf>)
- [IRS Publication 901 U.S. Tax Treaties](http://www.irs.gov/pub/irs-pdf/p901.pdf): (<http://www.irs.gov/pub/irs-pdf/p901.pdf>)

#### Contact Information

Subject	Contact	Phone	Email
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### Revision History

- Version Published on: Mar 13, 2009 (*Updated "Related Links"*)
- Version Published on: Mar 13, 2009
- Version Published on: Mar 29, 2007 (*Original Publication*)

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