**Student Social Security and Medicare FSS/PPS No. 03.20 (03.07.01)**

**(FICA) Tax Withholding Exemption Issue No. 8**

**Effective Date: 04/26/2021**
**Next Review Date: 05/01/2024 (E3Y)**

**Sr. Reviewer: Director of Payroll and Tax Compliance**

**01. POLICY STATEMENTS**

01.01 This policy and procedure statement (PPS) establishes policy guidelines for the implementation of [IRS Revenue Procedure 98-16](https://www.irs.gov/pub/irs-drop/rp-98-16.pdf) that was replaced by [IRS Revenue Procedure 2005-11](https://www.irs.gov/pub/irs-drop/rp-05-11.pdf), and exempts qualified student employees from withholding of Social Security and Medicare (FICA) taxes on wages paid.

01.02 The [Omnibus Appropriations Bill, H.R. 4328](https://www.congress.gov/bill/105th-congress/house-bill/4328) passed by Congress in 1999 includes a provision which permits states to exercise the “student exception” option provided in federal law.

01.03 The State of Texas filed Modification No.1496 to the [Texas State Social Security Agreement (Section 218 Agreement)](https://www.ssa.gov/slge/sect_218_agree.htm) to exempt the services of qualified student employees at Texas public colleges and universities from FICA taxes, effective for any service performed after June 30, 2000, if they meet the guidelines outlined in [Internal Revenue Code Section 3121(b)(10)](https://www.irs.gov/government-entities/federal-state-local-governments/student-fica-exception).

01.04 Due to the change in this agreement and in accordance with federal tax law, Texas State 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 is regularly attending classes at the university.

**02. DEFINITIONS**

02.01 Qualified Student Employee – A student is qualified for this exemption, if enrolled and is regularly attending classes at least half-time (i.e., 50 percent of the minimum number of hours required for full-time enrollment certification purposes). To be considered half-time, the student must meet one of the following exemption criteria:

1. Undergraduate Student – enrolled at Texas State for six credit hours or more for the fall or spring semester, or for three credit hours or more for a summer semester;
2. Graduate Student – enrolled at Texas State for at least five credit hours for the fall or spring semester, or for three credit hours for a summer semester;
3. Ph.D. (Dissertation) Student – enrolled at least one credit hour while working on dissertation; or

d. Candidate for Graduation – enrolled at Texas State for any number of credit hours and is considered a candidate for graduation in the student enrollment files.

02.02 Career Employees – employees eligible to participate in a retirement program and do not require student status as a condition of employment. Career employees who are also students are not eligible, even if all other criteria are met.

02.03 Non-Student, Non-Regular Staff Employees – employees not eligible for a FICA exemption due to the position they are employed in, even if they meet the requirements for a “qualified student employee.”

02.04 Census Date – date on which “student status” is determined. Since the FICA Exemption Report is run each time payroll is processed, the exemption will be granted if the student meets criteria described in Section 02.01.

02.05 Enrollment Period – the semester in which the student is enrolled and employed at the university.

**03. PROCEDURES FOR GRANTING AN EXCLUSION**

03.01 Student status will be determined according to the following procedures:

1. General Eligibility – Each eligible student employee will have a historical record of enrollment activity. Each student’s record will be analyzed using the FICA Exemption Program each time payroll is processed.
2. Prior Semester Exclusion – based on the student’s enrollment status during the previous semester. No action is necessary by the student or the department to accomplish this as it will be determined by the dates in the payment record.
3. Current Semester Exclusion – based on the enrollment status during that semester.
4. Work Requirement – if the standards of [IRS Revenue Procedure 2005-11](https://www.irs.gov/pub/irs-drop/rp-05-11.pdf) are met, the amount of earnings for services performed by the employee, the type of services performed by the employee, the place where the services are performed, and the number of hours worked by the employee are immaterial.

03.02 Semester Breaks – As defined in [IRS Revenue Procedure 2005-11](https://www.irs.gov/pub/irs-drop/rp-05-11.pdf), student employees who are enrolled and are regularly attending classes in a given academic semester or session will be afforded the exemption from FICA tax withholding for any brief period of time between the end of one semester or session and the start of the succeeding semester or session, if the students qualified for the exemption in the immediately preceding semester or session, as long as that period does not exceed five weeks or 35 calendar days.

1. An example of when a student “would not be” considered FICA exempt includes: a student who was working, but was not enrolled, during the summer session. This determination would apply regardless of whether the student was enrolled during the previous spring semester and expects to return to the university in the fall semester.
2. An example of when a student “would be” considered FICA exempt includes: a student enrolled during the summer session would retain the exemption during the period between the summer session and the fall semester, as well as during the winter break, etc.

03.03 Benefit replacement pay is not impacted by the exclusion because it is part of an employee’s base pay.

03.04 Requests for refunds of Social Security/Medicare (FICA) taxes will be granted only with the approval of the director of Payroll and Tax Compliance.

**04. REVIEWER OF THIS PPS**

04.01 Reviewer of this PPS includes the following:

Position Date

Director, Payroll and Tax Compliance May 1 E3Y

**05. CERTIFICATION STATEMENT**

This PPS has been approved by the following individuals in their official capacities and represents Texas State Finance and Support Services policy and procedure from the date of this document until superseded.

Director of Payroll and Tax Compliance; senior reviewer of this PPS

Associate Vice President for Financial Services

Vice President for Finance and Support Services