

Frequently Asked Questions

What is the difference between a resident alien for tax purposes and a nonresident alien for tax purposes?

There are two distinct tax systems created under the Internal Revenue Code, the resident tax system and the nonresident-alien tax system. Resident aliens are taxed on their worldwide income, the same as U.S. citizens in the U.S. Nonresident aliens are taxed only on their U.S.-source income.

What is the "substantial presence test"?

The "substantial presence test" is the Internal Revenue Service's measure of whether an individual has been present in the U.S. long enough to qualify as a resident alien for tax purposes; and, therefore, the individual is subject to tax on his or her worldwide income. The substantial presence test is not used for immigration purposes, but to determine the Federal tax withholding status. An individual will be treated as a U.S. resident for tax purposes in the current year, if he or she is physically present in the U.S. for at least 31 days during the current calendar year and a total of 183 days during a three-year period. The three-year period includes the current year and two years preceding the current year. In calculating the 183 days, the individual counts:

- The number of days in the U.S. during the current year and
- 1/3 of the number of days present in the U.S. during the 1st year preceding the current calendar year and
- 1/6 of the number of days presents in the U.S. during the 2nd year preceding the current calendar year.

This test is performed and audited in Section B, "Determination of Residency Status" on the Statement of Citizenship and Federal Tax Status. The IRS requires that this test be performed each calendar year in order that an individual's Federal tax status can be adjusted to either a nonresident alien or to a resident alien.

Who is an "exempt individual" for tax purposes?

An "exempt individual" is one who qualifies to exclude days from the calculation under the substantial presence test – and as a result, extends the period of time before he or she will be considered a resident alien for tax purposes. In order to qualify as an exempt individual, the individual must be present in the U.S. temporarily and be in substantial compliance with the conditions of his or her visa. In addition, the individual must match one of the following profiles:

- The individual is present as a teacher/researcher/trainee or postdoctoral fellow on a J or Q visa who was present in the U.S. as a teacher, researcher, trainee, postdoctoral fellow, or student for no more than (any part of) 2 of the 6 preceding calendar years.
- The individual is present as a student on an F, M, J, or Q visa for no more than (any part of) 5 preceding calendar years. In order to "reset" the count of these five years back to zero, the individual must leave the U.S. for an entire calendar year period (January 1 to December 31).

What if I no longer qualify as an "exempt individual" — are there other ways I may be considered a nonresident alien for tax purposes?

If an individual no longer qualifies as an exempt individual, the individual may fall under several other exceptions. Note, however, that each of these exceptions requires that the individual provide explicit written verification to the University.

- **STUDENTS PRESENT LONGER THAN 5 CALENDAR YEARS.** You may continue to extend a student exempt individual status beyond the 5-year maximum if he or she meets all of the following conditions:
 - (1) The individual plans to temporarily reside in the U.S. and intends to return to his or her country of residence upon completion of studies,
 - (2) The individual provides the University with written proof that he or she has established with the local IRS district director that he or she does not intend to reside in the U.S. once his or her education is completed, and
 - (3) The individual is in substantial compliance with the requirements of his or her current student visa.
- **CLOSER CONNECTION EXCEPTION.** If the individual meets the conditions in Section D of the Statement of Citizenship and Federal Tax Status, he or she may be considered a nonresident alien for tax purposes. However, should the individual's intentions change or days of presence or status change, he or she must immediately report the change(s) to the Accounting Office so that his or her tax status may be adjusted appropriately. The individual must also provide a copy of the IRS closer connection determination letter.

What is FICA?

The Federal Insurance Contributions Act (FICA) provides a system of social security and Medicare benefits financed through taxes on employers and employees. FICA taxes and benefits consist of two parts: Social Security or Old Age Survivors, and Disability Insurance (OASDI), and Hospital Insurance for senior citizens and the disabled (Medicare).

Am I exempt from FICA tax withholding?

An individual can be exempt from FICA if he or she is:

- A nonresident alien,
- Present in the U.S. under an F-1, J-1, or M-1 visa, and,
- Performing services in accordance with the primary purpose of the visa's issuance (i.e., the primary holder of the visa, the "1" visa holder).

Please note the following:

- Alien employees who hold F-1 or J-1, or M-1 visas, but are considered resident aliens for Federal tax purposes, are not eligible for the FICA exemption. However, students would be eligible for the student FICA exception if they are carrying the minimum course load.
- The spouse/dependents of the primary visa holder F-2, J-2, or M-2 are not eligible for the FICA tax exemption.

Why do I need a Social Security Number or an ITIN?

A resident or nonresident alien employed by the university must obtain a Social Security Number (SSN). Any individual not eligible to obtain a Social Security number must obtain an Individual Taxpayer Identification Number (ITIN). The requirement to obtain an ITIN applies primarily to nonresident aliens who receive honorarium or other payments for independent contractor services or who are recipients of scholarship or fellowship payments. The SSN or ITIN is required on individual tax returns filed with the tax authorities by the employee.

How is my status for California State income tax purposes determined?

California does not distinguish between U.S. citizens, U.S. residents, and nonresident aliens with respect to State income tax withholding. Wages paid to California residents for services performed both within and outside the State are subject to State income tax withholding. Wages paid to nonresidents of California for services performed inside the State are subject to withholding for State income tax; only wages paid to nonresidents of California for services performed outside the State are exempt from withholding. The University Form UC W-4/DE 4 provides information for determining an employee's tax filing status and the number of allowances to claim for income tax withholding, all new employees must complete this form.

Note that for recipients of fellowship/scholarship awards or independent contractor payments, the individual must complete the California Tax Withholding Statement (FORM 590) to register his or her status as a resident or nonresident for California tax purposes. For recipients of fellowship/scholarship awards and independent contractor payments, only nonresidents of California are subject to state income tax withholding with respect to the nonqualified portion of their award. Nonqualified amounts paid to residents, while taxable are not reportable to the IRS.

How may I obtain more information about my Federal and state tax status?

For more information on Federal tax status, contact the **IRS** at:
World Wide Web address: [HTTP://WWW.IRS.GOV](http://www.irs.gov)
Phone: (800) 829-1040

For more information on state tax status, contact the **California Franchise Tax Board** at:
World Wide Web address: [HTTP://WWW.FTB.CA.GOV](http://www.ftb.ca.gov)
Phone: (800) 852-5711