

FICA REFUND REQUEST

PART I - TO BE COMPLETED AND SIGNED BY EMPLOYING AGENCY

EMPLOYEE _____ SOCIAL SECURITY NUMBER _____
is eligible for a refund of Social Security or Medicare tax from _____ (date) to _____ (date) for the following reason:

Dual Employment

- _____ Individual is an OPS employee that also holds a salaried position, but has NOT been continuously employed by the State of Florida as a salaried employee since before April 1, 1986. Correct retirement code is ZM.
- _____ Individual is an OPS employee that also holds a career service position. Employee has been continuously employed by the State of Florida as a salaried employee (not OPS) since before April 1, 1986. Correct retirement code is ZX.

Rehired Retiree

- _____ Individual is an OPS employee that retired from a Florida Retirement System employer and has begun to receive benefits from the system or have reached normal retirement age under the plan. The correct retirement code is ZM.

Nonresident Alien

_____ Individual is a nonresident alien that qualifies for Internal Revenue Code Sec. 3121(b)(19) exemption by meeting **all** of the following qualifications:

1. They do not possess an INS Form I-151, Alien Registration Card or an INS Form I-551, Alien Registration Receipt Card, (green card).
2. They do not satisfy the "substantial presence test." (See back of this form)
3. They are present in the U.S. under an F-1, J-1, M-1, or Q-1 visa, and
4. They are performing services in accordance with the primary purpose of the visa's issuance.

The individual arrived in the United States on _____ (insert date of last arrival in the U.S.) The correct retirement code is _____. (i.e., ZX, HD, ON, PD)

Student (Universities Only)

_____ Employee is a student enrolled half-time or more and regularly attending classes at the employing university. Employee meets the requirements of IRC Section 3121(b)(10) and Revenue Procedure 98-16. Correct retirement code is ZX. This exemption does not apply to students who are not enrolled in classes during spring break or more than 5 weeks.

The agency's matching refund should be restored to the following 29-digit FLAIR account code:

Agency Account _____ Date _____

Agency Name _____ Telephone _____

Agency Signature _____ Title _____

PART II - MUST BE SIGNED BY EMPLOYEE IF REFUND IS FOR A PRIOR CALENDAR YEAR

Under penalty of perjury, I, _____ (employee), have not and will not request a refund or credit for my _____ (year overpaid) overpayment of Social Security and Medicare taxes from the Internal Revenue Service. Any refund or credit already sought has been rejected.

Signature _____ Date _____

ADDITIONAL INFORMATION FOR NONRESIDENT ALIEN REFUND REQUESTS

Generally nonresident alien students are subject to FICA tax on January 1st of their sixth calendar year. Nonresident alien teachers and researchers are generally subject to FICA tax on January 1st of their third calendar year. These generalizations are based upon the assumption that this is the nonresident aliens' first visit to the U.S. If this is not the case the agency must perform the substantial presence test.

Substantial Presence Test Calculation

Under the substantial presence test, a foreign national working in the United States may be treated as a resident alien for tax purposes, even if he or she does not have an immigrant visa or seek permanent resident status. Individuals satisfy the substantial presence test for any calendar year that they are present in the United States for at least 31 days in the current year and 183 days counted using a weighted formula during the three-year period that includes the current year and the two prior years. Under the weighted formula, days present in the United States during the three-year period are counted as follows:

- All days of presence in the United States in the current year are counted;
- One-third of the days present in the United States in the year immediately preceding the current year are counted; and
- One-sixth of the days in the second year before the current year are counted.

For purposes of calculating the days that an individual is physically present in the U.S. for purposes of the substantial presence test, those days that the individual qualifies as an "exempt individual" are not counted. J or Q teacher or trainee visa holders are considered exempt if they were not exempt as a teacher, trainee, or student for any two of the last six calendar years. Additionally, if in any year during the six-year period the individual qualified as an F, J, M, or Q student visa holder, that year must also be taken into account.

F, J, M, or Q student visa holders are not considered exempt individuals if they have benefited from that status for any part of more than five calendar years.

A "calendar" year is used for purposes of both the two-year and five-year limitation rules - the period from January 1 - December 31. A "calendar" year is not twelve consecutive months. Thus, if an individual is exempt for any part of a calendar year, that year will count as a full calendar year when determining exempt individual years.

Example

Individual was physically present in the United States for 120 days in each of the years 1995, 1996, and 1997. To determine if they meet the substantial presence test for 1997, count the full 120 days of presence in 1997, 40 days in 1996 (1/3 of 120), and 20 days of 1995 (1/6 of 120). Since the total for the 3-year period is 180 days, they are not considered a resident alien under the substantial presence test for 1997.

Example

An F-1 student visa holder subject to the five-year rule arrives in the U.S. on December 15, 1992, will cease being an exempt individual on January 1, 1997. The visa holder's first "calendar" year will be 1992, even though he/she was only in the U.S. for 17 days of the year, and his/her second calendar year will be 1993. On January 1, 1997, the visa holder must begin to count the days of presence in the U.S. for purposes of the substantial presence test; if he/she leaves the U.S. before the test is met, he/she is not considered a U.S. resident. If, however, the visa holder stays in the U.S. for at least 183 days in 1997, he/she will meet the substantial presence test and be treated as a U.S. resident retroactively to January 1, 1997, and therefore, retroactively subject to FICA.