

NONRESIDENT ALIEN FICA REFUND REQUEST

Part I - To be completed and signed by the employing agency or university

_____ (insert the name of nonresident alien individual),
_____ (Social Security Number), qualifies for the Internal Revenue Code Sec.3121(b)(19) exemption, by meeting all of the following qualifications:

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

Individual is eligible for the exemption from _____ (insert year) to _____ (insert year).

The employer's matching refund should be restored to the following 29 digit FLAIR account code: _____.

Attached is a copy of the I-94 or IAP 66 that demonstrates the individual's visa status.

Signature

Date

Title

Agency Name

Telephone Number

SUNCOM Number

Part II - To be completed and signed by nonresident alien if refund is for a prior calendar year.

Under penalty of perjury, I, _____ [employee's name], 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

*see reverse

Substantial Presence Test Calculation

Nonresident aliens are considered U.S. residents for tax purposes if they meet the substantial presence test for the year. They meet this test if they were physically present in the United States on at least:

1. 31 days during the current calendar year, and
2. 183 days during the three-year period that includes the current year and the two years immediately before that, counting:
 - a) All the days present in the current year,
 - b) One-third of the days present in the year preceding the current year, and
 - c) One-sixth of the days present in the second year preceding the current year.

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.