

110.4 Student FICA Exemption

Students are generally exempt from FICA taxes under IRC Section 3121(b)(10). However, there are a number of important factors in determining whether the exemption applies. Generally, the FICA exemption applies to wages paid to a student that are “incident to and for the purpose of pursuing a course of study”. In essence, this general requirement means that the individual is a student who is employed while pursuing an education (student first) rather than an employee who is enrolled in courses (employee first). Specific guidance for determining exemption eligibility follows.

1. The student must be enrolled as at least a half-time undergraduate, graduate, or professional student enrolled at Baylor and regularly attending classes. Half-time status is determined based on university policy.
 - a. Because the student must be enrolled at least half-time, the exemption does not apply during breaks from classes. A break can last no longer than five weeks.
 - b. The half-time status requirement does not apply in a student’s final semester of study.
2. The student may not be a full-time employee to qualify for the exemption. Full-time employment is determined by university policy based on the employee’s normal work schedule (Rev. Proc. 2005-11). Baylor policy (BU-PP 400) defines full time as 30 hours or more. Anyone who is normally scheduled to work 40 or more hours per weeks is considered full-time regardless of University policy.
3. The exemption is not available to professional employees. As defined in IRC 31.3121(b)(10)-2(d)(3)(v)(B)(1), a professional employee is
 - a. one who possesses advanced knowledge in the field, consistently exercises discretion, and performs work that is intellectual and varied or
 - b. is eligible for benefits, including vacation, sick leave, retirement, or other employment benefits
4. Postdoctoral students are specifically excluded from the exemption based on the nature of the work they perform.
5. See section 110.4(a) for additional guidance regarding FICA exemption for non-resident aliens.

Sources:

<https://www.irs.gov/government-entities/federal-state-local-governments/student-fica-exception>
<https://www.irs.gov/pub/irs-drop/rp-05-11.pdf>

The Payroll Office has primary responsibility for FICA Exemption determinations and should be consulted on any questions regarding application.