Non – Resident Aliens

Most wages paid to a nonresident alien must be reported on Form W-2, while only those amounts that are treaty exempt are reported on Form 1042-S. **All non-wage payments to nonresident aliens even if no taxes were withheld must be reported on Form 1042-S instead of a W-2.** Treaty exemptions are subject to time and dollar limits for each country. The nonresident alien employee may file Form 8233 to claim exemption from taxes, Social Security and Medicare. Form 8233 is filed with Payroll Services before taxes are stopped for an employee. Reporting wages on Form 1042-S is currently a manual process, **which must be completed by 11/30/2022.** For more information reference IRS Publications 515 and 901.

- Complete packet for submission to IRS includes:
  - Form 8233
  - Non-Resident Alien Student / Instructor Statement
  - Copy of Passport / Visa
  - Form I-9
  - Form I-20 from U.S. Dept. of Justice
  - Copy of a signed Social Security card

IRS Forms and Publications:

- IRS Topic 851 – Resident and Nonresident Aliens (Rev. May 2022)
  - https://www.irs.gov/taxtopics/tc851

- IRS Form 8233 (Rev. September 2018) - Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual
  - https://www.irs.gov/pub/irs-pdf/f8233.pdf

- Instructions for IRS Form 8233 (Rev. October 2021)
  - https://www.irs.gov/pub/irs-pdf/i8233.pdf

- United States Income Tax Treaties - A-Z information
    - https://www.irs.gov/businesses/international-businesses/united-states-income-tax-treaties-a-to-z

- U.S. Tax Treaties – IRS Publication 901 (Rev. September 2016)
    - http://www.irs.gov/pub/irs-pdf/p901.pdf

- Withholding of Tax on Nonresident Aliens and Foreign Entities – IRS Publication 515 (Rev. March 2022)
    - https://www.irs.gov/pub/irs-pdf/p515.pdf

- U.S. Tax Guide for Aliens – IRS Publication 519 (Rev. April 2022)
    - https://www.irs.gov/pub/irs-pdf/p519.pdf

Non-resident Aliens on J-1 Visas

Internal Revenue Code and the Social Security Act allow an exemption from Social Security/Medicare taxes to alien students, scholars, teachers, researchers, trainees, physicians, au pairs, summer camp workers, and other non-immigrants who have entered the United States on F-1, J-1, M-1, Q-1, or Q-2 visas and who are still classified as NONRESIDENT ALIENS under the residency rules of the Internal Revenue Code. This means that foreign students in F-1, J-1, M-1, Q-1 or Q-2 non-immigrant status who have been in the United States less than 5 calendar years are still NONRESIDENT ALIENS and are still exempt from Social Security/Medicare taxes. Foreign students in F-1, J-1, M-1, Q-1 or Q-2 non-immigrant status who have been in the United States more than 5 calendar years are RESIDENT ALIENS and are liable for social security/Medicare taxes (unless they are exempt from FICA under the "student FICA exemption."

In a similar fashion, foreign scholars, teachers, researchers, trainees, physicians, au pairs, summer camp workers, and other non-students in J-1, Q-1 or Q-2 non-immigrant status who have been in the United States less than two calendar years are still NONRESIDENT ALIENS and are still exempt from Social Security/Medicare taxes. However, foreign scholars, teachers, researchers, trainees, physicians, au pairs, summer camp workers, and other non-students in J-1, Q-1 or Q-2 non-immigrant status who have been in the United States more than two calendar years are RESIDENT ALIENS and are liable for social security/Medicare taxes.
IRS Alien Liability for Social Security and Medicare Taxes of Foreign Teachers, Foreign Researchers, and Other Foreign Professionals