



# Alien Liability for Social Security and Medicare Taxes of Foreign Teachers, Foreign Researchers, and Other Foreign Professionals

In general aliens performing services in the United States (U.S.) as employees are liable for U.S. social security and Medicare taxes. However, certain classes of alien employees are exempt from U.S. social security and Medicare taxes as follows.

**Resident aliens**, in general, have the same liability for Social Security/Medicare Taxes as U.S. Citizens.

**Nonresident aliens**, in general, are also liable for Social Security/Medicare Taxes on wages paid to them for services performed by them in the United States, with certain exceptions based on their nonimmigrant status. The following classes of nonimmigrants and nonresident aliens are exempt from U.S. Social Security and Medicare taxes:

- J-visas, and Q-visas. Nonresident Alien scholars, professors, teachers, trainees, researchers, physicians, au pairs, summer camp workers, and other non-student aliens temporarily present in the United States in J-1, or Q-1/Q-2 nonimmigrant status are exempt on wages paid to them for services performed within the United States as long as such services are allowed by United States Citizenship and Immigration Services (USCIS) for these nonimmigrant statuses, and such services are performed to carry out the purposes for which such visas were issued to them.
  - Exempt Employment includes:
    - Employment as a professor, teacher or researcher.
    - Employment as a physician, au pair, summer camp worker, or any other non-student category of exchange visitor.
  - Limitations on exemption:
    - The exemption does not apply to spouses and children in J-2, or Q-3 nonimmigrant status.
    - The exemption does not apply to employment not allowed by USCIS or to employment not closely connected to the purpose for which the visa was issued.
    - The exemption does not apply to J-1, or Q-1/Q-2 nonimmigrants who change to an immigration status which is not exempt or to a special protected status.
    - The exemption does not apply to J-1, or Q-1/Q-2 nonimmigrants who become resident aliens.
- H-visas. Certain nonimmigrants in H-2 and H-2A status are exempt as follows:
  - An H-2 nonimmigrant who is a resident of the Philippines and who performs services in Guam;
  - An H-2A nonimmigrant admitted into United States temporarily to do agricultural labor. For more information on foreign agricultural workers, see [Foreign Agricultural Workers, Exemption from Withholding of U.S. Federal Income Tax and U.S. FICA Taxes](#).
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## Totalization Agreements

The United States has entered into agreements with several nations called [Totalization Agreements](#) for the purpose of avoiding double taxation of income with respect to social security taxes. These agreements must be taken into account when determining whether any alien is subject to the United States Social Security/Medicare tax.

## The Social Security/Medicare Tax Liability

The Internal Revenue Code imposes the liability for Social Security and Medicare taxes on both the employer and the employee who earns income from wages in the United States. The Code grants an exemption from Social Security and Medicare taxes to nonimmigrant scholars, teachers, researchers, and trainees (including medical interns), physicians, au pairs, summer camp workers, and other non-students temporarily present in the United States in J-1, Q-1 or Q-2 status. The Social Security Act contains the same provision. Both the Internal Revenue Code and the Social Security Act exempt the above-named nonimmigrants from Social Security/Medicare taxes for as long as these nonimmigrants are "NONRESIDENT ALIENS" in J-1, Q-1 or Q-2 status.

Foreign scholars, teachers, researchers, trainees, physicians, au pairs, summer camp workers, and other non-students in J-1, Q-1 or Q-2 nonimmigrant 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 nonimmigrant status who have been in the United States more than two calendar years are RESIDENT ALIENS and are liable for social security/Medicare taxes. When measuring an alien's date of entry for the purposes of determining the two calendar years mentioned above, the actual date of entry is not important. It is the calendar year of entry which is counted toward the two calendar years. Thus, for example, a foreign teacher who enters the United States on December 31, 2012 counts 2012 as the first of his two years as an "exempt individual."

The IRS has issued regulations which clearly stipulate that the spouses and dependents of alien scholars, trainees, teachers, or researchers temporarily present in the United States in J-2 status are NOT exempt from Social Security and Medicare taxes, and are fully liable for Social Security/Medicare taxes on any wages they earn in the United States because such aliens have not entered the United States for the primary purpose of engaging in training, teaching, or research. However, if the alien in J-2 status is employed doing a type of work which is exempt from Social Security and Medicare tax under the code, then the exemption still applies. For example, the wages paid to a J-2 teacher employed by a state university might be exempt from Social Security and Medicare tax if the state has not elected Social Security and Medicare coverage for state employees under Section 218 of the Social Security Act.

Alien scholars, trainees, teachers, or researchers in J-1, Q-1 or Q-2 status who change to a nonimmigrant status other than J-1, Q-1 or Q-2 will become liable for Social Security/Medicare taxes in most cases on the very day of the change of status. Teachers, trainees, and researchers in H-1b status, and alien nurses in H-1a or H-1c status, are liable for Social Security/Medicare taxes from the very first day of U.S. employment, regardless of whether they are nonresident or resident aliens, and regardless of whether their wages may or may not be exempt from federal income taxes under an income tax treaty, unless the provisions of a Totalization Agreement relieve such aliens from liability for U.S. Social Security/Medicare taxes..

Foreign scholars, teachers, researchers, trainees, or other professionals who arrive in the United States in O-1 status or TN status (from Canada or Mexico under the NAFTA treaty) are fully liable for U.S. Social Security/Medicare taxes from the very first day of U.S. employment if they are employed on the payroll of the university or other employer, regardless of whether or not they are resident or nonresident aliens, unless the provisions of a Totalization Agreement relieve such aliens from liability for U.S. Social Security/Medicare taxes.

### **Self-Employment Tax Liability**

A NONRESIDENT ALIEN is not liable for the self-employment tax. However, once an alien individual becomes a RESIDENT ALIEN under the residency rules of the Code, he then becomes liable for self-employment taxes under the same conditions as a U.S. citizen. However, in certain rare cases, it is possible for a nonresident alien to choose to pay U.S. self-employment tax on his U.S. source self-employment income under the terms of a Totalization Agreement.

As a general rule, the immigration laws of the United States do not permit nonimmigrants to earn self-employment income. Nevertheless, if a nonimmigrant violates his nonimmigrant status and earns self-employment income in the United States, such self-employment income is subject to U.S. federal income tax and, if he becomes a RESIDENT ALIEN, is also subject to U.S. self-employment tax..

## References/Related Topics

- [Foreign Students and Scholars](#)

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