



## **NORTH CAROLINA A&T STATE UNIVERSITY**

### **CHAPTER 1000 – FINANCIAL AND BUSINESS AFFAIRS**

#### **UNIVERSITY POLICY 1004, STUDENT EMPLOYEE FICA TAX EXEMPTION**

#### **SECTION 1004.1 POLICY STATEMENT**

North Carolina Agricultural and Technical State University (“NC A&T” or “University”) complies with the Federal Insurance Contributions Act (FICA), in making determinations on student tax eligibility based on the federal “safe harbor” tests set forth in the IRS Revenue Procedure 2005-11 guidelines and consideration of the facts and circumstances surrounding a student’s employment.

#### **SECTION 1004.2 PURPOSE**

The purpose of this policy is to summarize the guidelines that the University will use in determining which student employees are eligible for FICA exemption under the Internal Revenue Service (IRS) and Social Security Administration.

#### **SECTION 1004.3 SCOPE**

FICA taxes are imposed on all wages paid or received with respect to employment. Payments to employees for services are generally subject to FICA tax unless an exemption from the tax is provided in the IRS Code, regulations, and directives. Student employees who meet the guidelines set forth in IRS Revenue Procedure 2005-11 will be treated as exempt from FICA taxes. Student employees who do not meet the IRS Revenue Procedure 2005-11 guidelines for exemption will be subject to FICA tax withholding on their wages.

#### **SECTION 1004.4 DEFINITIONS**

- (1) “Institution of Higher Education” means a school, college, or university (SCU) within the meaning of section 3121(b)(10). The SCU primary function is the presentation of formal instruction, it normally maintains a regular faculty and curriculum, and it normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on. (Treas. Reg. Section 31.3121(b)(10)-2(c)). It may also be an affiliated Section 509(a)(3) organization with respect to the SCU.
- (2) “Full-time employee” means any employee whose normal work schedule is 21 or more hours per week whose services are not incident to and for the purpose of pursuing a course of study based on the University’s standards and practices.
- (3) A “professional employee” is an employee whose primary duty: (a) requires knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged

course of specialized intellectual instruction and study, as distinguished from a general academic education, from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, (b) requires the consistent exercise of discretion and judgment, and (c) is predominantly intellectual and varied in character and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.

- (4) A “licensed, professional employee” means an employee is required to be licensed under state or local law to work in the field in which the employee performs services.
- (5) “Student” means a person where education is predominant in the relationship with the school (prevails all other relationship the student has as a University employee), and who regularly attends classes while seeking a degree course of study.
- (6) “Half-time Student” means an enrolled student who is carrying a half-time academic workload, as determined by the institution that amounts to at least half of the workload of the applicable minimum requirement outlined in the definition of a full-time student or an enrolled student in the last semester, trimester, or quarter of a course of study and is enrolled in the number of credit or unit hours needed to complete the requirements for obtaining a degree. The course of study must require at least two semester, trimesters, or quarters to complete and must lead to a degree, certificate, or other recognized educational credential.
- (7) “Course of Study” means one or more courses the completion of which fulfills the requirements necessary to receive an educational credential granted by a school, college, or university. A course of study also includes one or more courses at a school, college or university within meaning of 1004.4.5 of this section the completion of which fulfills the requirements necessary for the student employee to sit for an examination required to receive certification by a recognized organization in a field. An educational credential is a degree, certificate, or other recognized educational credential granted by an organization described in this definition.
- (8) “Enrolled and Regularly Attending Class” means enrolled and regularly attending classes at a school, college, or university within the meaning of 1004.4.5 of this section at which the employee is employed to have the status of a student within the meaning of section 3121(b)(10). For the purposes of this paragraph 1004.5.8, a class is an instructional activity led by a faculty member or other qualified individual hired by the school, college, or university for identified students following an established curriculum.

## **SECTION 1005.5    REQUIRED WITHHOLDING**

The University must withhold [FICA taxes](#) from employee wages and pay a matching contribution, subject to certain limitations.

## **SECTION 1006.6 EXEMPTION FOR SCHOOL, COLLEGE, AND UNIVERSITY EMPLOYEES**

Student employees who provide services that are “incident to and for the purpose of pursuing a course of study,” and who have a predominately educational relationship with the University while enrolled and regularly attending classes (prevailing over any relationship the student has as a University employee), and enrolled at least half-time in coursework, during the period being compensated are exempt from FICA tax under IRC § 3121(b)(10).

## **SECTION 1007.7 IRS SAFE HARBOR**

### **Section 1007.7.1 General Standards**

Under the [Revenue Procedure 2005-11](#) safe harbor, a wage payment made by the University to an individual will qualify for the student FICA exemption if the individual:

- (a) is at least a half-time undergraduate student or at least a half-time graduate or doctoral student,
- (b) is working in a student worker appointment (e.g., undergraduate, work study, graduate assistant TA/RA/GA),
- (c) is not a full-time employee of the University,
- (d) is not a “professional” employee, and
- (e) is not a career employee eligible to receive certain employment benefits or participate in certain employment benefit plans (e.g., vacation, sick leave, 403(b), retirement plan, etc.).

### **Section 1007.7.2 Determination of Student Status**

The determination of student status will be made at the end of the drop-add period and may be adjusted thereafter at the University’s option and must be re-evaluated for each academic semester employed.

### **Section 1007.7.3 Student Enrollment**

Undergraduate, graduate, and doctoral students who are enrolled at least half-time at the University are exempt from Social Security and Medicare (FICA) taxes. In determining whether an individual is a “student” of the University, the Payroll Office will rely on data in the Banner Student system and other relevant facts. The below table lists the minimum enrollment hours requirement established by the University for the student FICA exemption to apply. These are subject to change and exceptions may apply.

Student Classification	Semester Term	Half Time or Above	FICA Status
Undergraduate	Fall/Spring	6 Credit Hours or Above	Exempt
Undergraduate	Summer	3 Credit Hours or Above	Exempt
Graduate/Doctoral	Fall/Spring	4 Credit Hours or Above	Exempt
Graduate/Doctoral	Summer	3 Credit Hours or Above	Exempt

#### **Section 1007.7.4 Professional Employees**

An employee has the status of a professional employee within the meaning of section 1004.5.2, when the service aspect of the employee's relationship with the University is predominant.

Services performed by an employee who receives or is eligible to receive employment benefits as described in this paragraph are not eligible for the safe harbor exemptions, because such services cannot generally be considered to be incident to and for the purpose of pursuing a course of study. For purposes of this section, an employee's services are not eligible for the safe harbor provided if the individual -

1. Is eligible for vacation, sick leave, or paid holiday benefits;
2. is eligible to participate in any retirement plan described in section 401(a);
3. is eligible to receive an allocation of employer contributions other than contributions described in section 402(g) of the Code under an arrangement described in section 403(b);
4. is eligible to receive an annual deferral by non-elective employer contributions under an eligible deferred compensation plan described in Section 457(b), or would be eligible for such annual deferrals if plan requirements were met, or if contributions by salary reduction were made by the employee to a plan described in Section 457(b);
5. is eligible for reduced tuition (other than qualified tuition reduction under section 117(d)(5) of the Code, provided to a teaching or research assistant who is a graduate student;
6. is eligible to receive one or more of the employment benefits described under sections 79 (life insurance), 127 (qualified educational assistance), 129 (dependent care assistance programs), and 137 (adoption assistance).

If the employee performs services in multiple positions, the employee will be deemed a professional employee with respect to all of the positions if the individual is a professional employee in any one or more of the positions.

#### **Section 1007.7.5 Employment Benefits**

A student employee does not qualify under the [Revenue Procedure 2005-11](#) safe harbor rules if the employee is eligible to receive one or more of the benefits described in section 1007.7.4 of this policy.

### **Section 1007.7.6      Graduating/Last Semester Students**

A student who is enrolled less than half time during a semester will still meet the safe harbor guidelines if the student is graduating at the end of that semester. A student in the last semester or term of a course of study who is enrolled for the number of credit hours needed to complete the degree requirements will be regarded as being at least a half-time student, even if the student is enrolled in less than half the number of credit hours required of full-time students. If a student is exempt from FICA on the basis of their last semester but does not graduate in the confirmed semester term otherwise exempt, the University must recover FICA. The student employee will be required to back-pay all FICA taxes.

A graduate or doctoral student may also be exempt from FICA tax if the student is registered for less than half-time credit hours when the student is engaged in research in fulfillment of a degree requirement, or writing a dissertation or thesis.

Student employees that are registered for less than half-time and expect exemption from FICA taxes must complete the Student FICA Exception Form and obtain required approval and attestation signatures from the degree program coordinator or department chair, or designated individual set by the department chair.

### **Section 1007.7.7      School Breaks**

An individual working for the University during the summer or during other school breaks of more than five (5) weeks, but who does not have the status of a student during this period as defined in this policy, is not eligible for the student FICA exemption on wages paid during the period.

The student FICA tax exemption applies to school breaks of 5 weeks or less (e.g., winter and spring breaks) if certain conditions are met:

- (a) the individual must qualify for the FICA tax exemption on the last day of the semester preceding the break; and
- (b) be eligible to enroll for classes in the first semester following the break.

### **Section 1007.7.8      Other Employee Groups**

According to Revenue Procedure 2005-11, the safe harbor guidelines are not available for employees who are postdoctoral scholars, postdoctoral fellows, and postdoctoral research associates, medical residents, or medical interns because the services performed cannot be assumed for the purpose of pursuing a course of study.

### **Section 1007.7.9      FICA Status of Foreign Nationals**

Students, researchers, or scholars temporarily present in the U.S. on F-1, J-1, or Q-1/Q-2 visas are usually exempt from FICA taxes as long as they are considered “nonresident aliens” for tax purposes and meet other criteria. The exemption is based on immigration status and student status. The Payroll Office utilizes the International Tax Navigator

System to determine the nonresident alien or resident alien status for tax purposes by completing the IRS Substantial Presence Test (SPT).

## **SECTION 1008.1 RECOVERY OF FICA DEFICIENCIES AND FICA REFUNDS**

The University is required by regulations to take steps to recover any FICA deficiency (underpayment) by former or current employees. This would also be required when a student employee attest that it is the last semester for graduation to receive FICA exemption, and do not otherwise graduate. The employee becomes responsible to repay the FICA taxes exempted in the period graduation was not fulfilled.

The University must also take steps to process refunds owed to an employee. Individuals seeking FICA refunds for a prior calendar year must recover the refund from the Internal Revenue Service. The Payroll Office can provide required forms and instructions.

### **POLICY HISTORY:**

Policy Eff. July 17, 2023

**AUTHORITY:** Chancellor

**POLICY OWNER:** Vice Chancellor for Business and Finance

**RESPONSIBLE OFFICE:** University Payroll Office

### **RESOURCES:**

IRC § 3121(b)(10)

IRS Revenue Procedure 2005-11

[Internal Revenue Bulletin: 2005-2](#)