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Guide to Claiming International Student's FICA Tax Refund

The Internal Revenue Code (IRC) imposes the liability for FICA (Social Security and Medicare) taxes on both the employer of, and the employee, who earns income from wages in the United States. The Internal Revenue Code also grants an exemption from social security and Medicare taxes to non-immigrant students, who temporarily present in the United States in F-1 status. This article will help you determine if you were eligible and explain how to claim your FICA refund.

Alien students in F-1 visa non-immigrant status who have been in the United States less than 5 calendar years are considered as non-resident aliens and are exempt from FICA (Social Security/Medicare) taxes. This exemption also applies to any period in which the foreign student is in "practical training" allowed by USCIS, as long as the foreign student is still a non-resident alien under the Internal Revenue Code. Please note that foreign students in F-1 non-immigrant status who have been in the United States more than 5 calendar years are resident aliens and are liable for FICA (Social Security/Medicare) taxes.

Currently, the combined FICA (Social Security and Medicare) tax rate paid by employees is 7.65%. This is comprised of 6.20% for Social Security and 1.45% for Medicare taxes. There is a wage base limit (\$137,700 for 2020) for social security tax. The wage base limit is the maximum wage that's subject to the tax for that year. Medicare taxes, on the other hand, do not have a wage limit. High-income individuals also need to pay an Additional Medicare Tax (0.9%) if their income exceeds \$200,000.

On Form W-2, Box 4 lists the amount of "Social Security Tax Withheld" and Box 6 lists the amount of "Medicare Tax Withheld". If FICA (Social Security or Medicare) taxes were withheld in error from pay that is not subject to these taxes, you must first contact the employer who withheld the taxes for a refund. If your employer is able to refund these taxes, no further action is necessary.

If your employer is unable to refund these taxes, request a statement outlining their denial of your refund. If you cannot obtain this statement from your employer, you must provide this information on your own statement and explain why you are not attaching a statement from your employer.

Then you should file Form 843 and 8316 to request a refund from the IRS. Make sure to include the following:

1. A completed 843 form (Claim for Refund and Request for Abatement)
2. A completed Form 8316 (Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a non-resident alien on an F, J, or M Type Visa)
3. A copy of your W-2(s) that indicates the Social Security and Medicare taxes were withheld in error
4. A copy of the page from your passport showing the visa stamp
5. A copy of your I-94 record
6. If applicable, a copy of your I-20 form that indicates CPT or OPT authorization
7. If applicable, a copy of your EAD card authorizing OPT or Economic Hardship
8. A written statement that you unsuccessfully requested a refund of these taxes from your employer

After preparing all above documents, you can print, sign and date form and mail them to the IRS office where your employer's Forms 941 returns were filed. Please note you should mail these documents separately with your federal income tax return, since the handling departments are different.



If you wish to obtain more information or assistance, please visit our official website at www.kaizencpa.com or contact us through the following means:

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