

- Is a resident of Canada or Mexico, whichever applies, and
- Expects to perform the described duties during the tax year in question.

The statement can be in any form, but it must be dated and signed by the employee, and must include a written declaration that it is made under penalties of perjury.

Canadian and Mexican residents employed entirely within the United States. Neither the transportation service exception nor the international projects exception applies to the pay of a resident of Canada or Mexico who is employed entirely within the United States and who commutes from a home in Canada or Mexico to work in the United States. If an individual works at a fixed point or points in the United States (such as a factory, store, office, or designated area or areas), the wages for services performed as an employee for an employer are subject to graduated withholding.

Exception 4. Compensation paid for services performed in Puerto Rico by a nonresident alien who is a resident of Puerto Rico for an employer (other than the United States or one of its agencies) is not subject to withholding.

Compensation paid for either of the following types of services is not subject to withholding if the alien does not expect to be a resident of Puerto Rico during the entire tax year.

- Services performed outside the United States but not in Puerto Rico by a nonresident alien who is a resident of Puerto Rico for an employer other than the United States or one of its agencies, or
- Services performed outside the United States by a nonresident alien who is a resident of Puerto Rico, as an employee of the United States or any of its agencies.

To qualify for the exemption from withholding for any tax year, the employee must give the employer a statement showing the employee's name and address and certifying that the employee:

- Is not a citizen or resident of the United States, and
- Is a resident of Puerto Rico who does not expect to be a resident for that entire tax year.

The statement must be signed and dated by the employee and contain a written declaration that it is made under penalties of perjury.

Tax treaties. Pay for dependent personal services under some tax treaties is exempt from U.S. income tax only if both the employer and the employee are treaty country residents and the nonresident alien employee performs the services while temporarily living in the United States (usually for not more than 183 days). Other treaties provide for exemption from U.S. tax on pay for dependent personal services if the employer is any foreign resident and the employee is a treaty country resident and the nonresident alien employee performs the services while temporarily in the United States.

Pay for teaching (Income Code 18). This category is given a separate income code number because some tax treaties provide at least partial exemption from withholding and from

U.S. tax. Pay for teaching means payments to a nonresident alien professor, teacher, or researcher by a U.S. university or other accredited educational institution for teaching or research work at the institution.

Graduated rates. Graduated withholding of income tax usually applies to all wages, salaries, and other pay for teaching and research paid by a U.S. educational institution during the period the nonresident alien is teaching or performing research at the institution.

A nonresident alien temporarily in the United States on an "F-1," "J-1," "M-1," or "Q-1" visa is not subject to social security and Medicare taxes on pay for services performed to carry out the purpose for which the alien was admitted to the United States. Social security and Medicare taxes should not be withheld or paid on this amount. However, if an alien is considered a resident alien, as discussed earlier, that pay is subject to social security and Medicare taxes even though the alien is still in one of the nonimmigrant statuses mentioned above. This rule also applies to FUTA (unemployment) taxes paid by the employer. Teachers, researchers, and other employees temporarily present in the United States on other nonimmigrant visas or in refugee, or asylee immigration status are fully liable for social security and Medicare taxes unless an exemption applies from one of the totalization agreements in force between the United States and several other nations.



The Social Security Administration publishes the complete texts and explanatory pamphlets of the totalization agreements which are available by calling 1-800-772-1213 or by visiting the Social Security Administration web site at: www.socialsecurity.gov/international.

Tax treaties. Under most tax treaties, pay for teaching or research is exempt from U.S. income tax and from withholding for a specified period of time when paid to a professor, teacher, or researcher, who was a resident of the treaty country immediately prior to entry into the United States and who is not a citizen of the United States (see Table 2). The U.S. educational institution paying the compensation must report the amount of compensation paid each year which is exempt from tax under a tax treaty on Form 1042-S. The employer should also report the compensation in the state and local wages blocks of Form W-2 if the wages are subject to state and local taxes, or in the social security and Medicare wages blocks of Form W-2 if the wages are subject to social security and Medicare taxes.

Claimants must give you either Form W-8BEN or 8233, as applicable, to obtain these treaty benefits.

Pay during studying and training (Income Code 19). This category refers to pay (as contrasted with remittances, allowances, or other forms of scholarships or fellowship grants—see *Scholarships and Fellowship Grants*, earlier) for personal services performed while a nonresident alien is temporarily in the United States as a student, trainee, or apprentice, or while acquiring technical, professional, or business experience.

Graduated rates. Wages, salaries, or other compensation paid to a nonresident alien student, trainee, or apprentice for labor or personal

services performed in the United States are subject to graduated withholding.

A nonresident alien temporarily in the United States on an "F-1," "J-1," "M-1," or "Q-1" visa is not subject to social security and Medicare taxes on pay for services performed to carry out the purpose for which the alien was admitted to the United States. Social security and Medicare taxes should not be withheld or paid on this amount. This exemption from social security and Medicare taxes also applies to employment performed under Curricular Practical Training and Optional Practical Training, on or off campus, by foreign students in "F-1," "J-1," "M-1," or "Q-1" status as long as the employment is authorized by the U.S. Citizenship and Immigration Services. However, if an alien is considered a resident alien, as discussed earlier, that pay is subject to social security and Medicare taxes even though the alien is still in one of the nonimmigrant statuses mentioned above. This rule also applies to FUTA (unemployment) taxes paid by the employer.

Any student who is enrolled and regularly attending classes at a school may be exempt from social security, Medicare, and FUTA taxes on pay for services performed for that school. See Publication 15 (Circular E).

Tax treaties. Many tax treaties provide an exemption from U.S. income tax and from withholding on compensation paid to nonresident alien students or trainees during training in the United States for a limited period. In addition, some treaties provide an exemption from tax and withholding for compensation paid by the U.S. Government or its contractor to a nonresident alien student or trainee who is temporarily present in the United States as a participant in a program sponsored by the U.S. Government (see Table 2). However, a withholding agent who is a U.S. resident, a U.S. Government agency, or its contractor must report the amount of pay on Form 1042-S.

Claimants must give you either Form W-8BEN or 8233, as applicable, to obtain these treaty benefits.

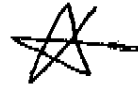
Artists and Athletes (Income Code 20)

Because many tax treaties contain a provision for pay to artists and athletes, a separate category is assigned these payments for withholding purposes. This category includes payments made for performances by public entertainers (such as theater, motion picture, radio, or television artists, or musicians) or athletes.

Withholding rate. You must withhold tax at a 30% rate on payments to artists and athletes for services performed as independent contractors. See *Pay for independent personal services*, earlier, for more information. You must withhold tax at graduated rates on payments to artists and athletes for services performed as employees. See *Pay for dependent personal services*, earlier, for more information. However, in any situation where the nature of the relationship between the payer of the income and the artist or athlete is not ascertainable, you should withhold at a rate of 30%.

Central withholding agreements. Nonresident alien entertainers or athletes performing or participating in athletic events in the United States may be able to enter into a withholding

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