

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Student FICA and RA Exemption

NUMBER: 5:6

A. PURPOSE

To clarify student eligibility for the FICA tax and RA exemption.

B. DEFINITIONS

- 1. Federal Insurance Contribution Act (FICA):** FICA is the federal program that funds Social Security retirement and Medicare benefits.
- 2. Reemployment Assistance (RA):** RA is the state program that funds Reemployment Assistance benefits, which is an employer tax expense only.

C. POLICY

IRS regulations (31.3121(b)(10) of the Federal Insurance Contributions Act (FICA) and Revenue Procedure 2005-11 provides an exemption from FICA contributions for students employed by a university that are enrolled and regularly attending classes at the school. Publication 15 – (Circular E), Employer’s Tax Guide provides an exemption from Federal Unemployment Tax Act (FUTA) for students employed by a university that are enrolled and regularly attending classes, performing services for public school, college or university. To qualify for the exemption, the educational aspect of the relationship between the student employee and the employer, as compared to the employment aspect, must be predominant.

1. Eligibility

- 1.1. Students who are working that are not full-time employees, based on standard employee definitions may be eligible for the exemption. Student employees that must be licensed are considered professional employees, or that are receiving employee benefits are not disqualified, although these criteria should be considered when looking at all the facts and circumstances in determining the predominant aspect of the relationship.
- 1.2. The predominant aspect of the relationship must be that the student is regularly attending classes at the school in pursuit of a course of study. This determination must be made each academic term. The class load and workload must be considered together to determine which is predominant.
- 1.3. A relevant factor in evaluating the student’s course load is the load relative to a full-time course workload at the school. This determination is made based on the regular definitions and practices of the school.

- 1.4. A relevant factor in evaluating the service or work relationship is the employee's work schedule and the number of hours worked per week. As the number of hours approach 40, the likelihood is that the service aspect is predominant.

2. Course Load Status for Determining FICA and RA Exemptions

- 2.1. An undergraduate student must be actively enrolled in the following number of credits to be considered for the FICA and RA exemption:

Fall, Spring & Summer 6 Credit Hours

- 2.2. A graduate student must be actively enrolled in the following number of credits to be considered for the FICA and RA exemption:

Fall, Spring & Summer 5 Credit Hours

3. Payroll Operation

- 3.1. The student must be enrolled in the minimum number of credits at the start of the term to be eligible for the FICA and RA exemption. If a student is not enrolled for the minimum numbers of hours for the academic term, they would not be exempted from FICA and RA.
- 3.2. If the student subsequently enrolls for the minimum number of hours after a payroll is run and becomes eligible for the FICA and RA exemption, corrections cannot be made to previous payrolls.
- 3.3. For payroll periods that overlap two subsequent terms, the FICA and RA exemption process should look at terms in chronological order to determine FICA and RA exemption status.

FORMS / APPENDICES:

None

SOURCE:

BOR April 2015; BOR October 2018; BOR December 2020.