

# Department of Accounts

## Payroll Bulletin

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The Payroll Bulletin is published periodically to provide CIPPS agencies guidance regarding Commonwealth payroll operations. If you have any questions about the bulletin, please call Cathy McGill at (804) 371-7800 or Email at [cathy.mcgill@doa.virginia.gov](mailto:cathy.mcgill@doa.virginia.gov)

State Payroll Operations

**Director** Lora L. George  
Assistant Director Cathy C. McGill

## Nonresident Alien (NRA) Tax Withholding

### NRA Tax Table Changes

Our software vendor recently supplied us with a tax update for the Nonresident Alien (NRA) federal income tax (FIT) withholding calculations that were effective January 1, 2010. This change has been made to CIPPS and will reduce the amount of FIT that is withheld for NRAs with a 901 code in Resident Country on H0BAD.

As a reminder, not all non-US citizens are NRAs for tax purposes....it all depends on the visa type and how long they have been in the US. You may contact Martha Laster at [martha.laster@doa.virginia.gov](mailto:martha.laster@doa.virginia.gov) or 804-225-2382 for assistance in making this determination.

IRS Publication 519 contains the instructions to determine who should be taxed as an NRA or RA. The general rule is: F1 and J1 students, M1s and Q1s are generally only considered nonresident aliens for their first five years in the US, including Optional Practical Training (OPT) and Curricular Practical Training (CPT) time. In their sixth year they become resident aliens for tax purposes and should be taxed like a US citizen. For example, if someone enters the US as F1 or J1 for the very first time on 12/01/2007 they are a nonresident alien for 5 years (2007, 2008, 2009, 2010, 2011) so long as they remain either F1 or J1 students. On January 1, 2012 they would then be taxed like a US citizen. Be sure to ask the employee to provide their history of dates in the US and visa types.

### NRA CIPPS Data Entry

IRS Publication 15, page 16 tells you how to withhold federal tax for NRAs. <http://www.irs.gov/pub/irs-pdf/p15.pdf>. To invoke the NRA FIT-withholding in CIPPS, enter the following on the H0BAD screen (except for students and business apprentices from India):

- change the resident country to 901
- enter a FIT marital status of 1 (as per the W-4)
- enter the exemptions claimed on the new W-4 (usually a 1)

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## Nonresident Alien (NRA) Tax Withholding, cont.

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**NRA FICA Tax** The following IRS web site provides a good overview on the Social Security/Medicare tax (FICA) taxability of alien employees (be sure to read down to the section on "The Social Security/Medicare Tax Liability").  
<http://www.irs.gov/businesses/small/international/article/0,,id=129427,00.html>  
In general, aliens performing services in the United States are liable for FICA taxes. H1, O1, and TN visa holders must pay FICA taxes and are never FICA-exempt. An H-2A nonimmigrant admitted into the United States temporarily to do agricultural labor is FICA-exempt. There are 3 requirements in order for other non US citizens to be exempt from U.S. social security and Medicare taxes as follows:

1. Their employment to work for your agency must be specifically authorized. If they don't have proper work authorization, they can't be FICA-exempt (nor should they be employed). **And,**
2. They must be F1, J1, M1 or Q1. (F2s, J2s and most all other types including H1, O1 and TN are never FICA-exempt). **And,**
3. They must be "nonresident aliens". This is a complex tax formula discussed at the end of the IRS web site listed above and in Publication 519. Once they become resident aliens for tax purposes you usually need to start withholding FICA (unless you are a university where other rules come into play).

Different rules apply to J1 non-students. The residency rules of section 7701(b) generally consider non-students in J-1 status as nonresidents for two years in the United States. In their third year they generally become resident aliens and are then liable for FICA taxes and taxed liked a US citizen.

These are basic general rules that become complicated if the employee has previously been in the US before this current visit. Be careful with the I9, it can be complex for non-US hires. Consult with your DHRM representative for assistance with I9 completion.

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