1040.30 Tax Withholding for Nonresident Aliens

An alien is any individual who is not a U.S. citizen or U.S. national. A nonresident alien is an alien who has not passed the green card test or the substantial presence test. Nonresident aliens may be employed by UMS, however, it is important to note that there are specific regulations and additional paperwork may be required when employing them.

Also visit Nonresident Frequently Asked Payroll Questions for additional information.

For a nonresident student employee, the Student Employment Work authorization must be completed for all positions an international student has on campus

- International Students cannot exceed 20 hours of work per week during the academic year

Nonresidents are required to complete Form I-9 to confirm eligibility to work in the US.

Nonresidents are required to have a Social Security Number or proof that they have applied for one and will provide it to Payroll/HR once they have received their Social Security Card.

Nonresidents are required to complete a Foreign National Information Form per Administrative Practice Letter: http://www.maine.edu/about-the-system/system-office/finances/administrative-practice-letters/ SECTION IX – Student Financial E. Payments to Nonresident Aliens

### Required Documentation for Foreign National Information Form

<table>
<thead>
<tr>
<th>Visa/Permit Type</th>
<th>Foreign National Information Form</th>
<th>I-797 Petition</th>
<th>EAD</th>
<th>I-20</th>
<th>Unexpired Foreign Passport</th>
<th>I-94</th>
<th>Current Visa</th>
<th>DS-2019</th>
<th>Special Letter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment Authorization Document (EAD)</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F-1</td>
<td>YES</td>
<td></td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>H1B1</td>
<td>YES</td>
<td>YES</td>
<td></td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>J-1</td>
<td>YES</td>
<td></td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td></td>
<td></td>
</tr>
<tr>
<td>J-2</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>O-1</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td></td>
<td>YES</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RF</td>
<td>YES</td>
<td></td>
<td>YES</td>
<td>**YES</td>
<td></td>
<td></td>
<td></td>
<td>YES</td>
<td></td>
</tr>
<tr>
<td>TN</td>
<td>YES</td>
<td></td>
<td>YES</td>
<td></td>
<td></td>
<td>YES</td>
<td></td>
<td></td>
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<tr>
<td>OPT</td>
<td>YES</td>
<td>YES</td>
<td>**YES</td>
<td>YES</td>
<td>YES</td>
<td>**YES</td>
<td>YES or EAD with I-512 designation</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Residents of certain countries may be eligible to claim a tax treaty to exempt all, or part, of their wages from U.S. federal income tax withholding. Maine also honors federal tax treaties. Tax treaties for F-1 and J-1 students generally exempt a limited amount of wages, from $2000-$5000, from federal income tax. Tax treaties for J-1 researchers generally exempt all wages from federal income tax. A Social Security Number is required to claim the tax treaty benefit. If applicable, Nonresidents may complete a Form 8233 Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual to claim tax treaty benefits (exempt from federal withholding taxes). Form 8233 Instructions.

**Important**

Nonresidents must reapply for treaty benefits each calendar year.

Visit 1040.35 UMS Tax Treaties for details.

Non-US citizens are considered a Nonresident Alien unless and until they pass the Substantial Presence Test at which time, their status changes to a Resident Alien. Resident Aliens are taxed similarly to US citizens. Visit this IRS site for additional information: https://www.irs.gov/individuals/international-taxpayers/substantial-presence-test
Description: When employees are first hired, the default tax withholding status is Single with no adjustments for both Federal and Maine tax withholding. Nonresident alien employees should follow these steps to update tax withholding status per IRS guidelines. For more information related to the special Form W-4 instructions for nonresident alien employees, including exceptions, refer to Notice 1392, Supplemental Form W-4 Instructions for Nonresident Aliens. Visit 1040.35 UMS Tax Treaties for additional related information.

UMS is required to add an amount to the nonresident alien’s wages solely for calculating the income tax withholding for each payroll period. The amount to be added to the nonresident alien’s wages to calculate income tax withholding is as follows:

<table>
<thead>
<tr>
<th>Payroll Period</th>
<th>Amount Added in 2021 if new 2020 Form W-4 is not submitted</th>
<th>Amount Added in 2021 if new 2020 or later Form W-4 is submitted</th>
<th>Amount Added in 2022 if new 2020 or later Form W-4 is not submitted</th>
<th>Amount Added in 2022 if new 2020 or later Form W-4 is submitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Biweekly</td>
<td>317.30</td>
<td>482.70</td>
<td>332.70</td>
<td>498.10</td>
</tr>
<tr>
<td>Monthly</td>
<td>687.50</td>
<td>1,045.80</td>
<td>720.80</td>
<td>1,079.20</td>
</tr>
</tbody>
</table>

Note. Nonresident alien students from India and business apprentices from India are not subject to this procedure.

When completing IRS Federal Form W-4, nonresident aliens are required to:

- Not claim exemption from income tax withholding;
- Request withholding as if single, regardless of actual filing status;
- Not claim the child tax credit or credit for other dependents in Step 3 of Form W-4 (if the nonresident alien is a resident of Canada, Mexico, or South Korea, or a student from India, or a business apprentice from India, he or she may claim, under certain circumstances (see Notice 1392), the child tax credit or credit for other dependents); and
- Write “Nonresident Alien” or “NRA” in the space below Step 4(c) of Form W-4.

When completing State of Maine Form W-4-ME, nonresident aliens are required to:

- Not claim exemption from income tax withholding;
- Request withholding as if single, regardless of actual filing status

Non-resident aliens on F-1 and J-1 visas are exempt from paying FICA (Social Security and Medicare) taxes until they become residents for tax purposes. F-1 and J-1 students generally maintain non-resident status for their first 5 calendar years in the U.S. Students also fall under the student FICA exemption, so generally students do not pay FICA taxes even after they become residents for tax purposes. J-1 researchers generally maintain non-resident status for their first 2 calendar years in the U.S. On January 1 of the third calendar year of presence, they begin to pay FICA taxes. All other non-residents, including H-1B, J-2 and TN visa-holders, are subject to FICA taxes from their first day of employment. Non-resident alien employees must complete the Foreign National Information Form in order to determine the appropriate FICA status.

Wages for non-resident alien employees are reported on a W-2 statement at year end. Non-resident aliens who have claimed a tax treaty will receive a 1042-S form, which may be in addition to the W-2 statement. Form 1042-S Foreign Persons U.S. Source Income - Employee wages that are exempt from federal and state income taxes due to a tax treaty will be reported on Form 1042-S. More information may be found in University of Maine System's Administrative Practice Letter #43 Payments to Nonresident Aliens.

Non-resident alien employees working for the University while physically present outside the U.S. cannot be paid via UMS payroll due to the complex tax withholding and reporting rules. Such workers must be paid using a third party global payroll processor with that third party making the appropriate tax withholding and social security payments in connection with the wages paid.

Resources:

- Administrative Practice Letter - SECTION IX
  - E. Payments to Nonresident Aliens
    - a. Foreign National Information Form
    - b. Interpretation of the IRS Laws Governing Nonresident Aliens
    - c. Tax Treaties
    - d. Form 8233, Exemption from Withholding on compensation for Independent Personal Services
      - i. Form 8233 Instructions
      - ii. For the additional statement referred to in Line 10 of IRS Form 8233, please view IRS Publication 519 App. A (Students) or App. B (Teachers/Researchers) or see attachments on Nonresident Frequently Asked Payroll Questions
- UMaine International Programs: Immigration & Visas
- Internal Revenue Service - International Taxpayer
- U.S. Citizenship and Immigration Services Website
- IRS Publication 515 - Withholding of Tax on Nonresident Aliens
- IRS Publication 519 - U.S. Tax Guide for Aliens

Note: This additional amount will not be reported on the employee's Form W-2, Wage and Tax Statement; it is only used for tax withholding calculations.
• IRS Publication 597 - Information on the United States–Canada Income Tax Treaty
• IRS Publication 901 - U.S. Tax Treaties