

J-1 Employer Handbook



A Cultural Exchange Opportunity:
What You Need to Know as an Employer.

Life Adventures, Inc



Advantages to Hiring J-1 Exchange Visitors

- Save on taxes! J1 foreign workers are not subject to Medicare, Social Security or Unemployment taxes.
- Know that each worker has all the proper documents including work authorization.
- Save time and money in advertising—There are no costs to review employee candidates.
- Fill as many positions as you need.

Staffing Solutions Through Cultural Exchange

Program Overview

Welcome to the Cultural Exchange experience. Hiring international staff is a wonderful opportunity.

The purpose of the Summer Work Travel program is to provide bona fide foreign post-secondary students an opportunity to become directly involved in the daily life of the people of the United States through travel and temporary work for a period up to four months during their summer vacation. The regulations governing the Summer Work/Travel program are found at 22 CFR §62.32.

We have taken some of the most common questions that employers have and created this employer guide with the basics. Should you have further questions, please call one of our representatives at 888.896.4985.

How do I know the employee is legal to work?

J-1 participants receive a form DS2019 that verifies their eligibility to participate in the Summer Work Travel Program as outlined in the regulations governing the program.

What are my obligations in hiring this student vs hiring a US employee?

As an employer, you are expected to provide employment orientation detailing basic employment procedures and expectations, to ensure that participants receive the same pay and benefits as U.S. citizens in the same or similar positions and that all Federal Minimum Wage requirements are satisfied. Employers are also asked to encourage employees to get involved in cross cultural activities.

What are the benefits in hiring this student vs hiring a US employee?

In addition to the cultural exchange opportunities that are inherent in the program, as an employer you additionally reap the benefits of the tax exemptions afforded within this program. Please see attached segments of IRS and Social Security documentation.

Can the participant begin working before they receive a social security number?

Yes. Participants are eligible to work as of the beginning date on their form DS 2019. Information for employers to assist in payroll filings prior participants' receiving a formal number is also provided.

Staffing solutions for your seasonal needs



Aliens Employed in the U.S. - FUTA

Employers pay Federal Unemployment Tax and file Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return. Only employers pay this tax. It is not deducted from the employee's wages. For more information, refer to the instructions for Form 940 (PDF), and to Publication 15 Circular E, Employer's Tax Guide.

Wages paid to aliens employed in the United States are generally subject to FUTA tax under the same conditions that would apply to U.S. citizens. However, certain types of services are exempt from FUTA taxes. Examples of exempt services include:

- Compensation paid to agricultural workers, including foreign agricultural workers in H-2A nonimmigrant status;
- Compensation paid to household employees, including au pairs who are resident aliens in J-1 nonimmigrant status unless the compensation exceeds \$1,000 during any calendar quarter of the current year or prior year;
- Compensation paid to employees of religious, charitable, educational, or certain other tax-exempt organizations;
- Compensation paid to nonresident aliens temporarily present in the United States in F-1, J-1, M-1, Q-1, or Q-2 nonimmigrant status, including:
 - Nonresident alien students in F-1, J-1, M-1, or Q-1 nonimmigrant status
 - Nonresident alien teachers and researchers in J-1 or Q-1 nonimmigrant status
 - All other Nonresident alien Exchange Visitors and Cultural Exchange Visitors in J-1, Q-1, or Q-2 nonimmigrant status.

Caution! Wages paid to aliens in F-1, J-1, M-1, Q-1, or Q-2 nonimmigrant status who have become resident aliens for tax purposes are subject to FUTA tax under the same conditions that would apply to U.S. Citizens.

For a list of other exempt services, refer to Publication 15, Circular E, Employer's Tax Guide.

References/Related Topics

- Federal Unemployment Tax
- Internal Revenue Code Section 3306
- Income Tax Regulation 31.3301-1 et seq.
- Publication 15, Circular E, Employer's Tax Guide
- Publication 51, Circular A, Agricultural Workers Tax Guide
- Publication 926, Household Employer's Tax Guide.

Note: This page contains one or more references to the Internal Revenue Code (IRC), Treasury Regulations, court cases, or other official tax guidance. References to these legal authorities are included for the convenience of those who would like to read the technical reference material. To access the applicable IRC sections, Treasury Regulations, or other official tax guidance, visit the [Tax Code, Regulations, and Official Guidance](#) page. To access any Tax Court case opinions issued after September 24, 1995, visit the [Opinions Search](#) page of the United States Tax Court.

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Employer Responsibilities When Hiring Foreign Workers

To help ensure that only those who should receive a number do so, Social Security has taken extra steps to ensure the integrity of Social Security numbers. The changes to the way Social Security assigns numbers and issues cards may cause a delay of several weeks or months in receiving a number. This fact sheet addresses employer responsibilities when hiring foreign workers (e.g., students or cultural exchange visitors) who have applied for and are waiting to receive a Social Security number and card. Note that the employee may work while the Social Security number application is being processed.

1. What causes delays when foreign workers apply for Social Security numbers?

When foreign workers apply for Social Security numbers, Social Security verifies their documents directly with the Department of Homeland Security (DHS). Most applications are verified immediately, but there can be delays. Social Security understands that this process may affect companies who hire foreign workers, but direct verification from DHS is vital to ensuring the integrity of the Social Security number.

2. What are an employer's responsibilities when hiring foreign workers who don't have Social Security numbers?

Advise workers that they are required to apply for a Social Security number and card. If a worker applied for but has not yet received a Social Security number, you should get the following information as complete as possible: The worker's full name, address, date of birth, place of birth, father's full name, mother's full maiden name, gender and the date he or she applied for a Social Security number.

3. What if the worker doesn't have a Social Security number when wage reports (Forms W-2) are due to Social Security?

Paper Filers: If the worker applied for a card but didn't receive the number in time for filing, enter "Applied For" in Box a. (Reference: [IRS Instructions for Forms W-2W-3](#), [www.irs.gov/instructions/w2w3/index.html](#))

Electronic Filers: If the worker applied for a card but didn't receive the number in time for filing, enter all zeros in the field for the Social Security number.

(Reference: [Specifications for Filing Forms W-2 Electronically](#))

Remember to instruct the worker to tell you the number and the exact name printed on the card, when he or she receives it.

4. My foreign worker received his or her Social Security number after I filed my wage report. What do I do?

When you receive the worker's Social Security number, visit the [File Correction Forms](#) for instructions on filing.

Reference: 26 CFR 31.6011

In this case, to get credit for the tax withheld, you must attach to your U.S. income tax return (along with evidence of withholding, such as Form W-2) a statement that contains all of the following information:

- Your name and TIN.
- The employer's name, address, and TIN.
- A description and location of the property.
- The date of the transfer.
- The amount realized on the transfer.
- The amount of tax withheld.

These services. These types of services are very limited, and generally include only on-campus work, practical training, and academic hardship employment.

Social security and Medicare taxes will be withheld from your pay for these services if you are considered a resident alien as discussed in chapter 1, even though your nonimmigrant classification ("F-1," "J-1," "M-1," or "Q-1") exempts you from the taxes.

Services performed by a spouse or minor child of nonresident aliens with the classification of "F-2," "J-2," "M-2," and "Q-2" are covered under social security.

Nonresident aliens who are considered a resident alien for Social Security purposes are not considered as nonresident alien students and are not covered by the exemption. Services performed by an exchange visitor who has been given permission to work, and who possesses or obtains a letter of authorization to work, are not covered by the exemption. Services performed by an exchange visitor who has the permission of the sponsor can work for the same reasons as the students discussed above.

Nonresident Alien Students

If you are a nonresident alien temporarily admitted to the United States as a student, you generally are not permitted to work for a wage or salary or to engage in business while you are in the United States. In some cases, a student admitted to the United States in "F-1," "M-1," or "J-1" status is granted permission to work. Social security and Medicare taxes are not withheld from pay for the work unless the student is considered a resident alien.

Any student who is enrolled and regularly attending classes at a school may be exempt from social security and Medicare taxes on pay for services performed for that school.

The U.S. Citizenship and Immigration Services (USCIS) permits on-campus work for students in "F-1" status. It does not restrict a U.S. resident. On-campus work means work performed on the school's premises. On-campus work is an integral part of an established curriculum. In this case, the educational institution endorses the Form 100. Social security and Medicare taxes are not withheld from pay for this work unless the student is considered a resident alien.

Students in "F-1" status may be permitted to participate in a cultural practical training program for students in "F-1" status. In this case, the educational institution endorses the Form 100. Social security and Medicare taxes are not withheld from pay for this work unless the student is considered a resident alien.

Employment due to severe economic necessity and for optional practical training in some cases is permitted for students in "F-1" status. USCIS generally permits on-campus work for students in "F-1" status who are economically necessary or for optional practical training. USCIS Social Security and Medicare taxes are not withheld from pay for this work unless the student is considered a resident alien.

Students in "M-1" status who have completed a course of study can accept employment for practical training for up to 60 days and must have a Form 148B or Form 1746 issued by the USCIS. Social security and Medicare taxes are not withheld from "M-1" students pay for these services.

Students in "J-1" status who have completed a course of study can accept employment for practical training for up to 60 days and must have a Form 148B or Form 1746 issued by the USCIS. Social security and Medicare taxes are not withheld from "J-1" students pay for these services.

Exchange Visitors

Nonresident aliens are temporarily admitted to the United States as nonimmigrant exchange visitors under section 101(a)(1)(C) of the Immigration and Nationality Act through the sponsorship of approved organizations and institutions that are responsible for establishing a program for the exchange visitor and for any later modification of that program. Generally, an exchange visitor who has the permission of the sponsor can work for the same reasons as the students discussed above.

Social security and Medicare taxes are not withheld from pay for services of an exchange visitor who has been given permission to work, and who possesses or obtains a letter of authorization to work, are not covered by the exemption. Services performed by an exchange visitor who has the permission of the sponsor can work for the same reasons as the students discussed above.

If you are a "J-1" visa holder, your spouse or minor child is permitted to work in the United States with the prior approval of the USCIS and issuance of Form 148B or Form 1746.

Nonresident aliens temporarily admitted to the United States as participants in international cultural exchange programs, under section 101(a)(1)(C) of the Immigration and Nationality Act, may be exempt from social security and Medicare taxes. The employer must be the sponsor through whom the alien obtained the "J-1" visa. Social security and Medicare taxes are not withheld from pay for this work unless the alien is considered a resident alien. Aliens with "Q-1" visas are not permitted to engage in employment outside the exchange program activities.

Refund of Taxes Withheld in Error

If social security or Medicare taxes were withheld from pay for this work unless the alien is considered a resident alien. Aliens with "Q-1" visas are not permitted to engage in employment outside the exchange program activities.

A copy of your Form W-2 to prove the amount of social security and Medicare taxes withheld.

- A copy of your return.
- A copy of any other documentation showing your dates of arrival or departure.
- If you have an F-1 visa, Form 148B.

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Excerpts from:

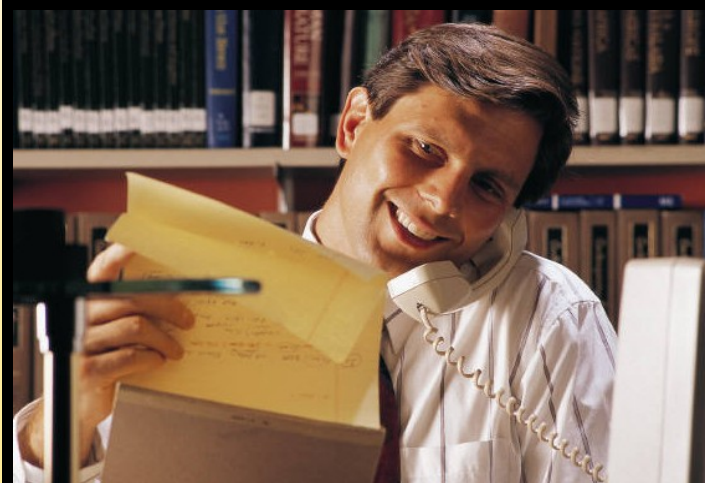
<http://www.socialsecurity.gov/employer/hiring.htm>

<http://www.irs.gov/businesses/small/international/article/0,,id=131639.00.html>

<http://www.irs.gov/pub/irs-pdf/p519.pdf>

Thank you for your interest in hiring an Exchange Visitor. Enjoy the many benefits that come through Cultural Exchange; international flare, payroll savings, and ease of hiring.

Should you have any questions regarding the program, please feel free to contact us.



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