

Payments to Foreign Nationals

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I. Purpose

To provide guidance and establish terms, limits and conditions for making payments to Foreign Nationals and to ensure compliance with Internal Revenue Service (IRS) regulations for tax withholding and reporting.

II. Definitions

- *Foreign National* – non-US citizen individual or foreign company.
- *Nonresident Alien* - a person who is not a U.S. citizen and who does NOT meet either the Green Card Test or the Substantial Presence Test.
- *Resident Alien* – a person who is not a U.S. citizen and who meets either the Green Card Test or the Substantial Presence Test. A resident alien generally is subject to the same tax withholding and payment rules as a U.S. citizen; however, the University Tax Office is responsible for determining whether the tax withholding and payment rules applicable to a resident alien differ from the rules applicable to a U.S. citizen.
- *Tax Analysis* – Determination of tax status and eligibility for federal tax exemption based on a tax treaty between a foreign national's country of tax residency and the United States. The analysis will ensure taxes are being withheld at the appropriate tax rate as required by the IRS. All required tax withholding and/or treaty benefit forms (e.g., 8233, W-8BEN and W-9) will be completed as part of the tax analysis.

III. Responsibilities

- A. Business officer/department administrator
 1. Contact the University's Tax Office at internationaltax@uky.edu for assistance with conducting a foreign national tax analysis in advance of the visit or before a contract is signed. If the individual is performing a service for the University, see BPM [E-7-3](#) for appropriate classification as an independent contractor or employee. The guest expenses will be considered part of the individual's fees.
 2. Verify vendor is in the vendor database.
 3. If vendor is not in the vendor database, send an invitation to PaymentWorks to the vendor. The vendor will complete the registration in PaymentWorks and submit it to UK to be established as a vendor.
 4. Submit payment document to Accounts Payable Services for approval.
 5. Notify foreign national of requirement to complete tax analysis prior to visit.
- B. Foreign National
 1. Complete tax analysis with the University Tax Office by contacting internationaltax@uky.edu.
- C. Procurement Services
 1. Review PaymentWorks registration for completeness.
 2. Approve new vendors as appropriate.
- D. Accounts Payable Services
 1. Review documentation provided for completeness.
 2. Review Foreign National tax status.

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3. Withhold taxes based on completed tax analysis and in accordance with IRS guidelines.
4. Report information to Payroll Services to file with IRS.

IV. Policy

Payments to individuals classified as Foreign Nationals shall be in accordance with IRS, State and University regulations for taxpayer classification, withholdings and reporting.

V. Procedures

- A. Determine the taxpayer status of the Foreign National through the tax analysis process.
- B. Foreign Nationals must be eligible to receive payments.
Determine the Foreign National's eligibility for payment at the time the arrangements are made for the individual to travel to the University. Only individuals who hold specific Visa types can work and receive payment for those services. Payments to Foreign Nationals for royalties, rents, or awards are not required to have a Visa.
- C. Establish the vendor
 1. The department will send an invitation through PaymentWorks to the vendor. The vendor will complete the registration in PaymentWorks and submit it to UK to be established as a vendor.
 2. Each vendor must complete the appropriate IRS forms based on their taxpayer classification (e.g., a W-9 or W-8BEN for individuals, or a W-8BEN-E for foreign entities) and attach the forms to the PaymentWorks registration.
- D. Request the payment
 1. Review the [Purchasing/AP Quick Reference Guide](#) and select the appropriate payment method.
 2. Complete the appropriate payment transaction document and attach all receipts, invoices, and other required documentation for the payment transaction and submit the document for approval/processing.
 3. Exemptions and reduced rates of tax withholding may be applied to the Foreign National's payment based on a tax treaty with their country of tax residency.
 - a. Federal tax withholding of 30% plus the current Kentucky tax withholding rate will be assessed for nonresident aliens for tax purposes if any of the following apply:
 - 1) The nonresident alien does not have a Taxpayer Identification Number (TIN);
 - 2) The exemption forms are improperly completed;
 - 3) The nonresident alien does not request an exemption;
 - 4) The nonresident alien is not eligible for an exemption because their country of tax residency does not allow for reduced withholding or the time or monetary limitations have been reached.

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4. Awards
 - a. Awards always require federal tax withholding of 30% plus the current Kentucky tax withholding rate.
 - b. The IRS stipulates that monetary awards given to nonresident alien employees, friends of the University, and students are not exempt under any tax treaties.
5. Reimbursable Expenses
 - a. Travel expenses can be reimbursed to the Foreign National based on the individual's Visa type and receipts for airfare, lodging, meals, and other expenses.
 - b. Any requests for reimbursable expenses without receipts or in excess of the receipts will be treated as taxable income to the Foreign National.