

Payments to Nonresident Alien Individuals

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I. Purpose

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

II. Definitions

- *Nonresident alien* – non-US citizen

III. Responsibilities (if necessary)

- A. Business officer/department administrator
 1. Determine the taxpayer status of the non-US Citizen.
 2. Access Internal Revenue Service Forms at <http://www.irs.gov>
 - a. [W-8BEN Form](#), Certificate of Foreign Status
 - b. [8233 Form](#), Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual
 - c. Additional Statements – IRS required content and format are in Appendix A and Appendix B of [IRS Publication 519](#).
 3. Assist Nonresident alien with completion of the forms
 4. Route forms for approval
- B. Nonresident alien
 1. Provide copies of
 - a. Visa or Visa Waiver Form
 - b. I-94 Arrival/Departure Record
 - c. Visa type and number
- C. Accounts Payable Services
 1. Review documentation provided for completeness
 2. Review non-US Citizen tax status
 3. Withhold taxes according to IRS guidelines
 4. Report information to Payroll Services to file with IRS.

IV. Policy

Payments to individuals classified as Nonresident Aliens shall be in accordance with Internal Revenue Service, State and Institutional regulations for taxpayer classification, withholdings and reporting.

V. Procedures

- A. Determine the taxpayer status of the non-US Citizen. Keep documentation showing calculations for the alien's residency status in the department as back-up.
- B. Nonresident aliens must be eligible to receive payments.
 1. Determine the nonresident alien'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. Note: payments to nonresident aliens for royalties, rents, or awards are not required to have a copy of the visa attached to the PRD.

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2. For independent contractor and student payments, obtain a copy of the nonresident alien's Visa or I-94 form and attach the copy to the payment document. If the individual is authorized to work for a specific purpose, obtain copies of either the IAP-66 (J Visa) or the I-20 (F Visa) forms and attach the copy to the payment document. Other Visa holders may be authorized to work for a sponsoring employer or by virtue of the particular Visa category into which the nonresident alien falls. Direct specific questions about Visa types or work eligibility requirements to the Immigration and Naturalization Service.
- C. Ascertain the type of payment to be made to the Nonresident Alien.
 1. Non-service Related Payments
 - a. Non-service related compensation includes cash disbursements for rents, royalties, scholarships, non-service fellowships and related expenses.
 - b. If the vendor is not established in the vendor database, have the vendor complete and sign IRS [W-8BEN Form](#) and submit it to Purchasing to have the vendor established prior to completing a PRD.
 - c. Prepare a PRD including a complete description and reason for the payment. Attach all receipts, invoices and other required documentation.
 - d. Exemptions and reduced rates of tax withholding may be applied to the nonresident alien's payment based on a tax treaty with his/her country of primary residence.
 - 1) [IRS Publication 901 U.S. Tax Treaties](#) from the IRS should be examined carefully before each payment so the nonresident alien understands the withholding requirements based on his or her country's tax treaty. This publication may be obtained from the IRS web address listed in [BPM E-7-1](#).
 - 2) Scholarships
 - a) Any enrolled student on a qualified scholarship is exempt from state and federal tax on payments that cover tuition, fees, books, and supplies.
 - b) Payments for items such as room, board, or travel expenses will qualify for reduced withholding of 14% federal and 6% state tax for students with a valid tax treaty on F, J, M, or Q Visas only.
 - 3) Rents, Royalties and Related Expenses
Rent, royalty, and related expense payments may have reduced rates or exemptions from tax withholding based on the alien's country of residence. However, not all countries will have the same withholding rates.
 - 4) A [8233 Form](#) should be completed and signed by the nonresident alien claiming reduced withholding for all non-service related payments. Attach this form to the PRD.
 - e. Withholding rates of 30% federal and 6% state tax will be assessed 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;

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- 4) The alien is not eligible for an exemption because the individual's country of primary residence does not allow for reduced withholding or the time or monetary limitations have been reached;
 - 5) Student payments are for individuals who are on Visas other than F, J, M, or Q Visas.
 - f. Attach the following documents to the PRD:
 - 1) [Form 8233](#) if applicable should be scanned and attached to the PRD as a separate file and labeled "Form 8233".
 - 2) Copy of Visa or I-94 Form (except royalty, rent payments)
2. Service Related Payments
- a. Payments related to services provided for the University include associated expenses, honorariums, service-based stipends, and independent contractor disbursements for individuals such as consultants and visiting speakers.
 - b. Prepare a PRD including a complete description and reason for the payment. Attach all receipts, invoices, and other required documentation. **DO NOT attach the IRS W-8BEN, Vendor Application or any other document that contains the payee's Personal Tax Identification Number to the PRD except the Form 8233 as instructed in section C.1.f above.**
 - c. Exemptions from tax withholding may be applied to the nonresident alien's payment based on a tax treaty with his/her country of primary residence.
 - 1) Determine if the nonresident alien is from a country that has a tax treaty with the United States. The individual is eligible for an exemption from tax withholding based on that agreement. Be sure that the disbursement is within the time and compensation limits.
 - 2) Determine if the nonresident alien is from a country that has a tax treaty with the United States. The individual is eligible for an exemption from tax withholding based on that agreement. Be sure that the disbursement is within the time and compensation limits.
 - 3) If eligible for a tax treaty exemption, have the nonresident alien complete and sign the Form 8233 for all service-related payments. Note: The IRS has imposed a waiting period of fifteen business days for all payments to nonresident aliens who wish to claim a tax treaty exemption. The check will be cut fifteen days after the documents are processed in Accounts Payable.
 - 4) Additional Statements must be attached when necessary.
 - d. If no exemption is requested, the exemption forms are improperly completed, or the nonresident alien is not eligible for a tax treaty exemption, withholding of 30% federal and 6% state tax will be assessed.
 - e. An invoice is required for all payments to individuals for services.
 - f. Attach the following forms to each service payment PRD as applicable:
 - 1) Copy of Visa or I-94 Form
 - 2) Invoice
 - 3) Form 8233 (Only used if claiming exemption)
 - 4) Additional Statements (If required for exemption)

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3. Awards
 - a. Awards always require federal tax withholding of 30% and state tax withholding of 6%.
 - b. The IRS stipulates that awards given to nonresident alien employees, friends of the University, and students are *not* exempt under any tax treaties.
 - c. Prepare a PRD including the payee's complete name, mailing address, and US taxpayer identification number. Include a complete description and reason for the payment. Attach all receipts, invoices, or other required documentation. **DO NOT attach the IRS W-8BEN, Vendor Application or any other document that contains the payee's Personal Tax Identification Number to the PRD.**
4. Guest Expenses
 - a. Guest expenses can be reimbursed to the nonresident alien based on the individual's receipts for airfare, lodging, meals, and other expenses.
 - b. Any guest expenses with no receipts or that are for amounts in excess of the receipts will be considered taxable income to the nonresident alien.
 - 1) If the individual is performing a service for the University, see the procedures for appropriate classification as worker or independent contractor in [BPM E-7-7](#). The guest expenses will be considered part of the individual's fee.
 - 2) Expense payments for individuals who do not perform services will be subject to withholding of 30% federal tax and 6% state tax. Attach the following forms to each PRD for guest expenses:
 - a) Copy of Visa OR I-94 Form
 - 3) Prepare a PRD including a complete description and reason for the payment. Attach all receipts, invoices, or other required documentation. **DO NOT attach the IRS W-8BEN, Vendor Application or any other document that contains the payee's Personal Tax Identification Number to the PRD.**