



MEMORANDUM

DATE: October 25, 2004
TO: Vice Presidents, Deans, Chairs, and Directors
FROM: Ellene Gibbs, Associate Vice President for Financial Operations
SUBJECT: Nonresident Alien (NRA) Payment Procedures for Non-employees

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The purpose of this memorandum is to notify you of new NRA procedures in Accounts Payable implemented to strengthen the University's tax compliance in the area of payments made to nonresident alien individuals (NRAs). In an effort to minimize any IRS and INS penalty exposure, the University has implemented procedures which will ensure that: 1) individuals are present at the University on a visa type for which they are legally entitled to receive a payment; 2) the tax residency status of payees is properly identified; and 3) proper taxes are being withheld, if required. Failure to comply with IRS and INS rules and regulations may result in the assessment of taxes, penalties, and interest against the University and could impact the budgets of the affected Departments. These procedures were implemented in consultation with Faculty Affairs.

Payment and Payee Types

These procedures pertain to all payments made to non-employees who are not U.S. citizens nor legal permanent residents. Payment types include services, travel reimbursements, and stipends made to guest speakers, special lecturers, distinguished visitors, performers, faculty recruits, or other consultants (non-employees) engaged by the Departments for services rendered. The Accounts Payable Payment Checklist should be referenced in these situations (see list under Forms Required below).

Procedures

Step 1: Assessing potential NRA payments

All University employees who are authorized to appoint or offer payment for services, travel or expense reimbursements, and stipends made to guest speakers, special lecturers, distinguished visitors, performers, faculty recruits, or other consultants, are required to ask the following questions, either verbally or by e-mail communication:

1. Are you a U.S. resident for tax purposes (either a U.S. citizen or “green card” holder)?
2. Do you have a valid social security number or individual taxpayer identification number (ITIN)?

These questions must be asked **prior** to the commencement of services and/or offer of payment in order to identify potential nonresident payment and tax issues. If the answer to both of these questions is “yes”, the payment can be processed through the normal procedures. If the answer to **either** of these questions is “No,” the University’s Tax Specialist must be contacted to ensure compliance with immigration and tax laws.

Step 2: Immigration Law Compliance

The Tax Specialist will:

- 1) determine whether the individual will be present at the University on a valid visa type for which a payment can be legally made. The Department must contact the Tax Specialist prior to entering into any agreements.

Step 3: Tax Law Compliance

The Tax Specialist will also:

- 2) determine whether federal and state income tax withholdings are required from the payment, and administer the required forms if a federal withholding exemption is available under an applicable income tax treaty;
- 3) provide any requested assistance to the Department or nonresident individual in order to comply with the additional requirements such as requesting an ITIN from the IRS; and
- 4) notify Accounts Payable and the Department of the withholding amount, if any, so the check can be processed with correct net amount to be paid.

Liability Matters

In the event that a payment or expense reimbursement request for an NRA is received after the individual has performed services for the University, or has been promised a payment or expense reimbursement and the proper NRA procedures were not followed, the Department will risk having the payment or expense reimbursement request denied or be held liable for any tax withholding requirement. In addition, the Department will be responsible for any underwithholding of tax, interest and/or penalties assessed, in the event of an IRS or INS audit.

Forms Required

- Accounts Payable Payment Checklist
- Payment Data Record (“PDR”) (STD. 204)
- Foreign National Information Form (“FNIF”)
- Guest Lecturer/Special Lecturer

Campus Contact

If you have any questions regarding NRA procedures, please contact Norma C. Casas, Tax Specialist at 4-4667 or 4-5115.

We recognize that this process introduces new complexities and appreciate, in advance, your cooperation.

Attachments

Cc: Bonnie Zimmerman, Associate Vice President for Faculty Affairs
Loretta Leavitt, University Controller
Valerie Carter, Tax and Audit Manager
Cathleen Austin, Accounts Payable Manager