



- SUBJECT:** Implementation of Tax Reporting and Withholding on Payments by the University of Colorado to Nonresident Aliens
- REFERENCES:** Federal Bureau of Citizenship and Immigration Services (“BCIS,” formerly known as Immigration and Naturalization Service (INS)) Regulations Governing the Employment of Non-U.S. Citizens; and Federal and State Regulations Governing Withholding of Taxes, Social Security and Contributions to Retirement Plans
- EFFECTIVE DATE:** This memorandum is effective Jan. 1, 1999 (revised August 2003), and will remain in effect until specifically superseded or canceled.
- PURPOSE:** The purpose of this memorandum is to provide the policy and procedures for both employment of and payments to nonresident aliens.
- DISTRIBUTION:** All supervisors and administrators who may be involved in authorizing or performing payments to nonresident aliens.

Introduction

The University of Colorado is committed to ensuring compliance with applicable laws governing employment and payments to nonresident aliens. This commitment is also necessary to achieve correct tax reporting and withholding as required on payments to nonresident aliens. Failure by the university to report and withhold as required can lead to fines and penalties for the university, as well as cause potential tax problems for the nonresident alien individuals who receive the payments.

Procedures

Employee Services: The tax reporting and deposits for withholding will be performed centrally for the university through Employee Services, based on information supplied by the campuses.

Campus: Employee Services will provide a coordinator for each campus, hereafter called international tax specialist, with respect to the campus’ payments to nonresident aliens. The campus international tax specialist will work with the university tax manager to ensure that the respective campus is in compliance with the tax rules, and that the campus correctly reports





and withholds on payments from that campus to nonresident aliens. Tax Directive 1999-01 will serve as the basis for implementation of the tax rules.

For the remainder of this document, the campus international tax specialist is assumed to be the focal point for coordinating the tax compliance process on the campuses.

Prior to committing to any sort of payment to a nonresident alien, the sponsoring or initiating department should contact the international tax specialist. Payments are broadly defined and include:

- payments made directly to a vendor by the university on behalf of the nonresident alien.
- payments of salary, honoraria, awards, or other forms of remuneration.
 - Wages paid to nonresident aliens are subject to graduated withholding rates under special rules for nonresident aliens. In the case of wages, the nonresident alien individual will provide the university with Internal Revenue Service Form W-4, if applicable, which must be filled out under the supervision of the international tax specialist. The international tax specialist must determine eligibility for tax treaty provisions, if available. Applicable paperwork will be completed under the supervision of the international tax specialist.
 - Non-wage remuneration is subject to withholding at the rate of 30 percent, under IRC 1441.
- payment of scholarships or grants.
 - Scholarships or grants paid to international students by the University may be fully or partially excluded from taxation depending upon whether any of these monies are provided for personal expenses beyond tuition and fees.
 - Scholarship or grant amounts remaining after payment of tuition and fees are subject to withholding at the reduced rate of 14 percent (unless excluded by treaty provisions). To be subject to the 14 percent withholding rate, the individual must be present in the United States, and must be on an F, J, M or Q visa. If the individual is eligible for a tax treaty, the appropriate Internal Revenue forms must be filed with the international tax specialist.





The international tax specialist will advise the sponsoring or initiating department on both the Bureau of Citizenship and Immigration Services (BCIS, formerly known as the INS) and Internal Revenue Code (IRC) implications of any prospective arrangement, including the applicability of any tax treaty provisions, in the case of wage payments. The international tax specialist will coordinate with other units, as appropriate, to ensure that the arrangement is in accordance with university and campus policies and procedures.

The international tax specialist will also ensure that payments for independent personal services, honoraria, etc., are in accordance with Internal Revenue Code requirements, and university and campus policies and procedures. Honoraria or independent contractor payments should not be processed for a nonresident alien prior to verifying work authorization with the campus international tax specialist. The campus international tax specialist will work with the Office of International Education (or an equivalent office) as necessary to verify the nonresident alien's visa status, work authorization, and eligibility to receive payments. See the additional discussion of work authorization under the description of sponsoring or initiating departmental responsibilities.

Vouchers submitted to the finance office, Office of Grants and Contracts, accounts payable, or Student Financial Aid for payment to nonresident aliens must be routed through the campus international tax specialist for approval prior to payment.

Any fines, penalties, or interest for incorrect reporting or withholding assessed as a result of failure by the sponsoring or initiating department to contact and cooperate with the international tax specialist will be charged to the sponsoring or initiating department.

Sponsoring or Initiating Department

1. Prior to commitment to a nonresident alien: Sponsoring or initiating departments are generally aware that the nonresident aliens will be coming to the university, often far in advance of the actual arrival date. Sponsoring or initiating departments must insure that no payments of any kind are made to nonresident aliens unless they have been granted the appropriate authorization and visa status by the Bureau of Citizenship and Immigration Services (BCIS, formerly known as the INS) in advance of their coming to the University of Colorado. To avoid problems upon the nonresident alien's arrival, it is in the best interest of the sponsoring or initiating department to work with both the campus' Office of International Education (or an equivalent office) and the international





tax specialist before the nonresident alien’s arrival date.

Additionally, prior to authorizing any payments to any nonresident alien, sponsoring or initiating departments must ensure that each nonresident alien who will receive payment from the university has either a Social Security number or an individual taxpayer identification number.

2. For students on scholarships or grants, it is important that the student’s visa status be correctly entered into the student information system. Often the student’s visa status information is simply provided by the student, upon his or her application for admission to the university. The visa status information provided by the student and entered into the student information system and other university records must agree to the visa status as later verified by the campus’ Office of International Education (or an equivalent office).
3. Nonresident aliens must have one of the following statuses in order to receive payment in the United States:

Status	Description
F-1	Student status—employment is limited
J-1	Exchange scholar or student
H1-B	Worker visa
TN	Trade NAFTA visa
O	Specialty worker visa
B-1/B2	Business visa/Tourist (payment only under restricted circumstances)
WT/WB	Waiver business/Waiver tourist (payment only under restricted circumstances)
EAD	Employment Authorization Document (issued by BCIS in conjunction with certain statuses, or in special circumstances)

For visitors from certain countries, the Immigration Service (BCIS) has a visa waiver program for short-term visitors. Persons using the visa waiver program will have a green I-94 card when they enter the country. The countries with visa waivers are:





Andorra	Iceland	Monaco
Austria	Italy	Netherlands
Belgium	Ireland (has been	New Zealand
Brunei	added as a	Norway
Canada	probationary	San Marino
Denmark	country)	Spain
Finland	Japan	Sweden
France	Liechtenstein	Switzerland
Germany	Luxembourg	United Kingdom

The sponsoring or initiating department must ensure that the nonresident alien individual coordinates and cooperates with the campus Office of International Education (or an equivalent office) and the international tax specialist, as necessary. The sponsoring or initiating department must also ensure that any vouchers submitted for independent personal services/honoraria payments are routed through the campus international tax specialist.

Any fines, penalties, and interest resulting from failure to comply with the tax rules for reporting and withholding on payments to nonresident alien individuals will be charged to the nonresident alien individual's sponsoring or initiating department.

