

UC Santa Barbara
Policies

Policy 5145

Issuing Unit: Administrative Services

Date: May 1, 1985

Under Revision
Contact Accounting

PAYMENTS TO ALIENS

I. REFERENCES:

- A. U.S. Tax Reform Act of 1984, Internal Revenue Service.
- B. UCSB Policies Manual, Policy 5120, Payment of Honoraria
- C. UCSB Policies Manual, Policy 5150, Payment to Aliens.
- D. UCSB Policies Manual, Policy 5170, Reimbursement of Travel Expenses.

II. POLICY:

It is extremely important to establish clearly the status of aliens so that they may be paid correctly in terms of Federal withholding tax requirements. Likewise, it is important that aliens who receive payments from the University understand their tax status. Because of special tax considerations, departments should seek information from the UCSB International Students & Scholars Office and the Accounting Office when they intend to employ an alien or when they plan to offer aliens honoraria, lecture fees, or any other non-payroll payments for personal services. Aliens should be referred to the Accounting Office when they arrive and when they plan to depart if they have any questions as to their tax status.

A. Classification of Resident and Nonresident Aliens:

As a general rule, an alien is classified as a resident alien for Federal income purposes if his/her declared intention is to stay in the United States for two years or more. A resident alien may claim tax exemptions the same as a U.S. citizen. An alien is classified as a nonresident alien if his/her intention is to remain in the U.S. for less than two years. A nonresident alien must be taxed as a single with one exemption. An alien will be considered to be a U.S. resident for income tax purposes if the individual is a lawful permanent resident of the U.S. at any time during the calendar year and has a "green card" or meets the requirements of the "substantial presence" questionnaire. After two years, the department should send the employee to the Accounting Office to establish the aliens proper tax status.

The following types of employees are considered nonresident aliens at the time of employment but may be eligible for residency status at a later date:

- 1. Teachers and researchers with a J-1 visa who are not covered by a reciprocal tax agreement: After a two year

waiting period, the employee may qualify as a resident alien under the "substantial presence" requirements.

2. Students with F-1 or J-1 visas: After a five year waiting period, the student may qualify as a resident alien under the "substantial presence" requirements.

B. Visas:

The type of visa held by every alien engaging in any form of service to the University must be identified and treated according to the terms of the visa. Attachment A is a list of the various types of nonimmigrant visas.

The most common type of visas at the University are the "J" (Exchange Visitor), "F" (Student), and "H" (Temporary Visitor of Distinguished Merit and Ability) which permits the holder to be paid compensation for services performed and be reimbursed for expenses incurred. The "B-1" visa (Temporary Business Visitor) permits the holder to receive reasonable reimbursement for travel and subsistence only (e.g., University per diem rate and air fare). The visitor is not permitted to receive salary, honoraria or any other form of compensation for services. The "B-2" visa (Temporary Visitor for Pleasure) does not permit the holder to receive any form of salary, honoraria, or compensation nor is the visitor permitted to receive any form of reimbursement for travel or subsistence. Mexican visitors who enter the United States without a formally issued visa are deemed to be B-2 visa holders. Canadian and British Landed immigrants residing in Canada entering the United States without a formally issued visa are deemed to be B-1/B-2 visa holders.

C. Taxpayer Identification Numbers:

It is imperative for all aliens employed at UC to have a taxpayer identification number. Aliens applying for taxpayer identification numbers (Social Security numbers) must furnish evidence of age, identity, citizenship, and alien status. The following document(s) are necessary to satisfy the law:

1. A foreign-born person who is now a citizen of the United States (one of the following):
 - U.S. passport
 - Naturalization Certificate
 - U.S. Citizen Identity Card
 - Certificate of Citizenship
 - Consular Report of Birth
 - U.S. Military Discharge papers showing U.S. Citizenship
2. Aliens residing in or visiting the United States (one of the following):
 - Alien Registration Card (1-151 or 1-551)
 - U.S. Immigration Form 1-94, 1-186, 1-185, SW-434, 1-95A, 1-184, or AR3A.

A representative of the Social Security Office is on campus one day a month. Appointments and information may

be obtained by calling International Students & Scholars Office. Documents may also be presented to the local Social Security Office in person. Photocopies are not acceptable.

D. Payments to Aliens:

Payments to aliens fall into four general categories:

1. Salary or Wages:

- a. Resident aliens employed by the University are subject to tax withholding on the same basis as United States citizens.
- b. Unless exempt by a reciprocal tax treaty (see paragraph E. below), nonresident aliens are taxed at the same rate as a single United States citizen. With the exception of residents of Canada and Mexico, these employees are allowed only one personal exemption regardless of their marital status or the number of dependents they may have either in the U.S. or abroad. Residents of Canada and Mexico who do not enter and leave the United States at frequent intervals are allowed the same number of exemptions for withholding purposes as for the computation of tax liability.
- c. Regardless of their Federal Income Tax status, all aliens are subject to California State Tax on all income earned in the State of California.

2. Scholarships and Fellowships:

a. Degree Candidates:

Aliens who are candidates for a degree and who are receiving undergraduate or graduate scholarship or fellowship payments are not subject to tax withholding or tax reporting.

b. Non-Degree Candidates:

- (1) Resident aliens receiving fellowships are not subject to tax withholding, but payments will be reported to the Internal Revenue Service. Recipients may be eligible for a fellowship exemption from tax when they file their tax return at the end of the year. Recipients should check with the Internal Revenue Service to establish their tax liability.
- (2) Nonresident aliens who hold "F" (Student) or "J" (Exchange Visitor) visas are taxed at the rate of 14 percent after allowing a \$300 per month fellowship exemption for a maximum period of 36 months, and one personal exemption of \$2.74 per day for the period during which the student or scholar receives the fellowship payments.

- (3) All nonresident aliens receiving fellowships are taxed at the rate of 30 percent after allowing a \$300 per month fellowship exemption for a maximum period of 36 months. No personal exemption is allowed in computing the amount of tax to be withheld. However, this personal exemption is granted when the alien files his tax return.
 - (4) In order to claim an exemption, the alien must complete and sign alien's certificate to claim Exemption from Withholding Tax on Scholarship or Fellowship (Attachment B).
 3. Honoraria, consulting fees, or other stipends paid by Request for Issuance of Check (see Policy 5120, paragraph C). The rate of tax withholding in each case depends upon the alien's type of visa and length of stay in the United States. In some instances aliens may be exempt from U.S. Income tax under terms of a reciprocal tax treaty between the United States and his/her country of residency; see paragraph II.E. below.
 - a. Holders of B-1 (Temporary Business Visitor) and B-2 (Temporary Visitor for Pleasure) visas are not permitted to receive salary, honorary, or other forms of compensation for services. Holders of B-1 visas are permitted to receive reimbursement for travel expenses and per diem (see paragraph D.4. below). A Canadian visitor who enters the United States without a formally issued visa is considered to be a B-1/B-2 visa holder. For advise or assistance, contact the Immigration Counselor in International Students & Scholars Office at UCSB.
 - b. Resident aliens receiving such payments are not subject to tax withholding, but earnings will be reported to the Internal Revenue Service.
 - c. Nonresident aliens receiving such payments may be exempt from tax under a tax treaty. If they are not tax exempt, tax must be withheld at the rate of 30 percent.

4. Reimbursement of Expenses (see UCSB Policy 5150):

For aliens only (if visa status permits), an honorarium payment and reimbursement of travel/subsistence expenses are allowed.

E. Tax Treaties:

Nonresident aliens from countries with which the United States has an income tax treaty may be eligible for exemption from Federal tax withholding if they meet the requirements of the treaty. Explanations of the articles may be found in "Commerce Clearing House, Inc., Tax Treaties," on file in the Accounting Office. Accounting also has available Document 515 for withholding of tax on nonresident aliens. Note that tax treaty

articles are based on permanent residence rather than citizenship.

The teaching article generally provides that professors or teachers who are residents of the tax treaty country and who visit the United States for the purposes of teaching at an educational institution for a period not exceeding two years shall be exempt from U.S. income tax on compensation received for such teaching.

F. Health Insurance:

Nonimmigrant aliens should be advised of The Regents' requirement that health insurance coverage must be carried as a condition of employment. Alien employees who are employed 50 percent time for one year or more, or 100 percent for three months or more, are eligible to enroll in one of the health plans in the University program, or they may show evidence of other health plan coverage which will equal to or provide greater benefits than the minimum standard of the University of California Group Health Plan Regulations. The Regents' contribution will be applicable. Nonstudent alien employees who do not qualify for eligibility for insurance are required to obtain health coverage outside the University program. A certification of coverage is required of all such employees and should be forwarded with their Employment forms, or have the certificate available at the time the employee completes the Statement of Citizenship. Foreign students must enroll in a special student health insurance plan as a condition of registration (see UCSB Policy 4220).

G. Sailing Permits:

When an alien employee, including a student employee, is ready to depart from the United States, he/she must obtain a tax clearance from the Internal Revenue Service, which is called a Sailing Permit. About three to four weeks before the alien is to leave the University, the department should contact the Accounting Office for a certification to request a Sailing Permit from the local Internal Revenue Service.

III. ATTACHMENTS:

- A. List of types of nonimmigrant visas.
- B. Alien's Certificate to Claim Exemption from Withholding Tax on Scholarship or Fellowship.

For questions or comments regarding the format of the above information, please contact webcontact@ucsbuxa.ucsb.edu.

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