

CASH DISBURSEMENTS -FOREIGN NATIONALS

GUIDELINES FOR PAYMENT:

Payment to foreign nationals (also known as "nonresident aliens"), whether it is for employment, honoraria, reimbursement of expenses, or some other university-related purpose, is subject to many requirements and restrictions and requires special documentation. Be reminded therefore, that the information provided in this section is a general reference only.

*** CONTACT THE WASHINGTON COLLEGE BUSINESS OFFICE (410)778-7708

BEFORE PROMISING PAYMENT TO A FOREIGN NATIONAL AND WELL IN ADVANCE OF HIS/HER ARRIVAL.

General Documents Required by U.S. Immigration:

The Immigration and Naturalization Service (INS) requires Washington College to have copies of the following unexpired documents on file and available for inspection by an auditor when payment to a foreign national/nonresident alien is required for services/activities performed or reimbursement of expenses need to be made:

- **Visa:** copy of the information page / picture page of the document
- **I-94 Card:** copy of the front and back of the card governing this admission, or, in the case of a foreign national from a Visa Waiver country, a copy of the Passport page with the 1-94 stamp (if a separate card was not issued).

ALERT! Generally the classification written on the Visa agrees with the 1-94 entry status. If they differ, it is the 1-94, not the Visa that governs the admission of the foreign national and defines what kinds of income/reimbursement are allowed. An I-94 stamp should have a notation by U.S. Customs as to the nonresident alien class upon entry to the United States.

ALERT! Immigration generally staples the I-94 card to the US Visa upon entry to the U.S. and removes the I-94 card upon departure. Make sure you get a copy of the card before the foreign national departs, as Washington College cannot process a payment to him/her without it.

- **Passport:** copy of the information page / picture page
- **Form 1-20:** (required if on F-1 Visa)
- **Form IAP66 / DS2019:** (required if on J-1 Visa)

ALERT! Prior written authorization signed by the "Responsible Officer" (identified on the IAP-66 or DS-2019 form) is required to authorize payment to the foreign national if he/she is sponsored by an institution/organization other than Washington College.

- **"Notice of Approval" of H-1B petition:** (required if on H-1B)

***** OBTAIN ALL NEEDED DOCUMENTS ***
BEFORE THE FOREIGN VISITOR DEPARTS**

*** Immigration Definitions:**

Foreign National: a citizen of another country.

Nonresident Alien: a foreign national who is allowed entry into the USA for a limited duration of time and sometimes for a specific activity at a single organization; such as, an F-1 student or a 1-1 teacher.

*** Immigration Types:**

B-1: Business Visitor Visa.

B-2: Tourist Visitor Visa.

WB: Visa Waiver for Business

WT: Visa Waiver for Tourism

F-1: Student Visa

1-1: Teacher/Researcher/Student Visa

H-IB: Specialty Occupation

*** Immigration Rules:**

△ B-1, B-2, WB, and WT Visa holders **MUST** sign a statement attesting to specific criteria for each payment. The statement is called "*Certification of Academic Activity.*"

△ F, 1, and H-IB Visa holders can be paid by the sponsor of their Visa only.

*** Visa types and Immigration entry -is the payment legal?**

As already noted, a variety of Visa types are issued to foreign nationals. The classification types identified below are the ones seen and processed most frequently by Washington College with regard to foreign nationals, upon admission to the U.S.

a) **B-1 or B-2 entry status**

Persons with B-1 or B-2 entry status can generally receive reimbursement for travel expenses under "Accountable Plan" rules. Honoraria payments may be made, **under very specific circumstances.**

Prior to any payment being made, Washington College's business office must have on file a statement signed by the foreign national, which attests to their VISA classification status and any other circumstances that are required to validate their eligibility for payment.

CONTACT THE BUSINESS OFFICE FOR THE REQUIRED FORM.

b) **F-1 entry status**

Persons with this entry status generally can be paid income if the F VISA is sponsored by Washington College.

c) **J-1 entry status**

Persons with this entry status generally can be paid income if the J VISA is sponsored by Washington College. If sponsored by another institution, income may be paid, provided that prior written authorization from the "Responsible Officer" of their designated program had been secured.

•. **IRS TAXATION:**

*" **IRS General Rules:**

To receive the compensation / income payment on U.S. source income, the foreign national must already have (or obtain) a U.S. social security number or ITIN number, regardless of I-94 entry status.

Note: U.S. social security numbers are only provided if the foreign national is acting in the capacity of an employee (dependent personal services).

There is no guarantee that the ITIN will be issued.

The IRS requires that Washington College have Form W-8BEN on file for foreign nationals who are subject to U.S. tax.

The general rule for taxation of payments to foreign nationals (except for business expense reimbursements) is to withhold 14% of scholarship payments and to withhold 30% of all other payments.

Foreign nationals do not receive a Form 1099. Form 1042-8 is used to report all income payments that are taxed, and all income payments exempted under the reasons specified below. Form 1042 is the annual return filed with the IRS, along with the IRS copies o/Form 1042-S.

*" **IRS Tax Exemptions:**

There are three ways to exempt income payment to a foreign national from tax:

1) Foreign Source Income Exempt

This is income sourced outside the US. There are different sourcing rules, depending upon the type of income being paid.

.... Independent Personal Services are sourced to the location of the activity.

.... This type of income must be reported to the individual and to the IRS on Form 1042-S. be sure to include the complete exact address on the Disbursement Request Form.

2) Exempt under Internal Revenue Code

This rule applies if the income, by its nature, is exempt by code. An example is qualified tuition payments exempt by Section 117 of IRS Code.

.... Income in this category must be reported to the individual and the IRS on Form 1042-S.

3) Tax Treaty Exempt

Treaties the U.S. has with other countries exempt certain amounts and types of payments from U.S. income tax. The exemption does NOT apply to Social Security Tax withhold, except for those foreign nationals who are classified as F-I & J-1. Their gross earnings are exempt from taxation for 5 years.

→ The foreign national is responsible for knowing about, and asking for any treaty benefit.

→ To claim a tax treaty benefit a foreign national must already have (or obtain) a U.S. Social security number (SSN) or ITIN number, regardless of VISA status. Prizes and awards are not addressed by tax treaties and are therefore subject to the 30% federal withholding.

→ A Form 8233 must be completed and submitted to Washington College's business office to apply for a treaty benefit. Washington College reviews the 8233, and if it is ok, completes the withholding agent portion and files the form with the IRS.

THE FORM 8233 CANNOT BE FILED WITH THE IRS WITHOUT A SSN OR ITIN.

Washington College must wait 10 business days from the date the Form 8233 is mailed to allow the IRS time to respond. If, after the 10 business days, no response from the IRS to deny the treaty benefit has been received, Washington College can allow the treaty benefit.

→ Income exempted by a tax treaty must be reported to the individual and the IRS on Form 1042-S.

•.: PAYMENTS ALLOWED:

Washington College must prepare and file by 03/15 the IRS Form 1042-S that is required for foreign nationals who received either foreign source income (non-taxable) or U.S. source income (not reimbursement), including income that was exempt under a U.S. tax treaty. A copy of the completed Form is provided to the foreign national.

.. Reimbursements for qualified business expenses:

To reimburse a foreign national for qualified business expenses (out of pocket expenses on behalf of the college) the following guidelines apply:

→ Copies of documents required by U.S. Immigration (identified above) must be on file with Washington College

→ All original receipts must be submitted

→ Accountable Plan rules apply

X No SS or ITIN # is needed

X Not subject to IRS withholding

.. Compensation for Dependent Personal Services Rendered:

Dependent Personal Services requirements and rules apply when an employee/employer relationship exists:

· Compensation is taxed using the U.S. withholding rates.

· *A foreign national can never claim exemption from income tax on Form W-4. He/she must submit copies of all of the general documents specified above, which are required for payment, along with a copy of SSN.*

· *Nonresident Alien must complete Form W-4 as follows: Single filing status, 0 or 1 exemption*

· *Nonresident Alien employees can claim tax treaty benefits, if there is a valid dependent personal services article in the treaty between the US and their country*

· *Nonresident Aliens receive a Form W-2 at the end of the year reporting any wages earned.*

**** Compensation for Independent Personal Services Rendered:**

Honorariums, consulting fees, independent contractor services, stipends, etc. are Independent Personal Services. Compensation to a foreign national for such services requires the following documents / information is provided:

- Copies of documents required by U.S. Immigration (identified above) must be on file with the Business Office;
- Copy of the letter/invitation/agreement from the campus department to the foreign national specifying what the payment is for;
- SS # or ITIN #

Payment of income to a foreign national cannot be made without a SS# or ITIN #. If an individual does not possess a SS # or ITIN #, Washington College is able to coordinate the application of the ITIN # if requested to do so.

Note: Contact the Business Office well in advance for necessary documents to obtain an ITIN number. It will take up to at least 6 weeks for the IRS to process the form and there is no guarantee that the IRS will issue an ITIN#.

- The Business Office representative will fax a Form W-7 (application for Individual Taxpayer Identification Number) to the applicant to complete.
- Applicant returns the completed Form W-7, along with a certified (notarized) copy of his/her foreign passport and/or US Visa and any other documents required by the W-7.
- The Business Office submits the Form W-7, with attachments and additional statements to the IRS.
- If issued the IRS returns the ITIN card with assigned number to Washington College. However, the IRS may return the ITIN to the recipient. In that case please forward the information to the Washington College Attn. Business Office.
- Washington College copies and forwards the original to the applicant

REMINDERS:

• *All income payments that are taxed, and all income payments exempted under the reasons specified are reported on Form 1042-8, along with the Form 1042 (the annual return filed with the IRS.)*

• The information in this section is only a general reference for a complex area of immigration and tax law. We cannot include information to cover every circumstance. We strongly urge you to contact the Business Office (410-778-7708) in advance of the

arrival of a foreign national (nonresident alien) that you have invited to your school to ensure you will have all the proper documentation in hand when it is time to request payment or submit required paperwork and/or reports to the IRS.