



Nonresident Aliens Payment for Services

Residents of certain foreign countries may be entitled to reduced rates of, or exemptions from, tax under applicable tax treaty between the country of which they are residents and the United States. The persons entitled to receive salaries, wages or any other compensation for personal services performed within the United States should provide a statement to the University to claim any exemption from withholding.

The 105th Congress passed and the President signed legislation which amended Section 212 (8 U.S.C. 1182), as amended by section 105, to allow payment of fees and associated incidental expenses (travel expense) for usual academic activity performed by non-U.S. residents (aliens as referred to in the legislation) at a qualified institution entering the U.S. in B visa status. Although federal regulations have not been drafted, UND has decided to provide such payments in accordance with the legislation. This includes the following requirements:

- The alien enters the U.S. in B-1 Visitor for Business status or B-2 status;
- the activity last no longer than nine (9) days at any single institution; and
- the alien has not accepted such payment or expenses from more than five (5) institutions in the previous six-month period.

The Foreign National Information Form must be completed before the nonresident alien can receive any form of payment for services. The nonresident alien will need to also provide a copy of both sides of their I-94 Form "Arrival and Departure Record" (a small white card inside their passport), and a copy of their U.S. VISA from their passport. These forms must be returned before any check can be issued by the Accounts Payable Department. The Foreign National Information Form is located on the Payroll Office website at <http://und.edu/finance-operations/human-resources-payroll/files/docs/foreign-national-form-und-new.pdf>

Accounting Services has drafted a statement (Statement for Visiting Non-US Residents) which must be completed by all visiting non-U.S. resident scholars upon request for payment of fees or reimbursement of expenses attesting to meeting the B visa status requirements. In addition, if fees will be paid, **IRS Form W-7** must be completed to obtain a tax identification number (TIN). It generally takes 60 days to receive the TIN after the *W-7 Form* is submitted to the IRS. Applicable forms are available at the Accounting Services web page.

To qualify for an exemption from withholding due to a tax treaty, an individual who performs **independent** personal services (as distinguished from an employee) must submit **Form 8233, Exemption from Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual**. *Form 8233 will be printed after the Foreign National Information Form is input by the Payroll Office and must be filed for each tax year of the Nonresident alien individual. The 8233 form will need to be signed by the Nonresident alien. The exemption from withholding is effective for payments made at least ten days after a copy of the accepted Form 8233 is forwarded to the Internal Revenue Service.*



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Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding will be printed after the Foreign National Information Form is input by the Payroll Office. The W-8BEN form will need to be signed by the Nonresident alien and submitted to Accounting Services with the payment documentation.

It is important that visitors from Canada or other Visa Waiver Program countries be advised that before entering the U.S. they must acquire an I-94 (entry document issued by the INS at the Port of Entry) indicating they have entered the U.S. in B-1 or B-2 visa status for the purposes of acquiring reimbursement of fees and incidental expenses. The department should provide the visitor with a memo outlining the purpose and dates of the trip and should indicate that proof of entry in B-1 or B-2 status is required for payment. The cost of acquiring the I-94 can be included in the expenses to be reimbursed. Visitors from non-Visa Waiver Program countries must acquire a visa at a U.S. Consulate in their home country and should request a B-1 or B-2 visa in order to receive payment for fees or reimbursement of expenses. Canadians entering the country in B-2 status may not receive written documentation at the border.

This practice may be modified as federal regulations are finalized. For questions regarding nonresident alien employees, contact the International Program, (7-4118) at the International Center. For questions regarding non-resident alien fee and travel reimbursement payments, contact Allison Peyton (7-2968) in Accounting Services.