

2017

Nonresident Alien Payments



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Disclaimer

The information presented within this document is intended for payments made to nonresident aliens where the payment comes through Payables only. **THIS DOCUMENT IS MEANT TO BE USED AS A GUIDE, NOT A FINAL DETERMINATION WHEN MAKING A PAYMENT TO A NONRESIDENT ALIEN.** There are unique matters pertaining to each person which may cause payments to have no withholding, withholding, or denied altogether. Nothing in this document shall be construed to be legal advice or tax advice.

Who is a Nonresident Alien?

Nonresident aliens are persons who are not U.S. citizen or a permanent resident. They have a legal presence in the U.S. While not an exhaustive list, nonresident aliens may be students, guest speakers, performers, athletes, professionals, journalists, trainees, religious workers, visitors, etc.

Types of Nonresident Alien Payments

There are five basic types of payments to nonresident aliens that come through Payables. There are other types of payments, but they are not discussed in this document.

1. Payments for services
2. Honorariums
3. Cash awards to non-employee students
4. Travel reimbursement
5. Research participants

Payments for Services

These payments are to nonresident for compensable services performed. Caution must be exercised because if an employer/employee relationship exists, the person must be on payroll. There is some helpful information located at <http://www.procurement.ku.edu/contractual-services> to help determine if an employer/employee relationship exists. Payments for services may be subject to tax withholding and reporting.

Honorariums

Some departments may invite persons who are well regarded as leaders in their field of work to present to classes or groups. Departments may wish to provide these persons with an honorarium. Honorariums are not provided for compensable services. Cash awards may be subject to tax withholding and reporting.

Cash Awards to Non-Employee Students

Cash awards are truly that, an award. There are no requirements attached to the award and there is no service component attached to the award. If there is a service component attached, it would be compensation for services provided, and may need to be treated as an employee. Only cash awards to non-employee students are to be processed via Payables. Only fund 725 is allowed. If the non-employee student is not a nonresident alien, the payment is through KU Endowment. If the student is an employee in any department in any capacity, the award is made via Payroll utilizing the additional fringe benefit form located on Payroll's Website. If there is no service component related to the award, ensure Payroll is aware of this so FICA is not withheld. All cash awards are subject to tax withholding and reporting.

Travel Reimbursement

Travel reimbursement (transportation, hotel, parking, and meals) may be made to a nonresident alien with receipts. Cancelled checks, bank statements, credit card statement, and other documents are not receipts. In some instances, payment of travel, travel reimbursement, and living costs may be counted as income to the individual and may be subject to tax withholding and reporting.

Research Participants

Typically, research participants are paid using research funds via KU Center for Research, Inc. Any research participant coming through Payables may have tax withholding, and will be reported. There is no “di minimis” amount not subject to reporting.

As a research university, KU must be in compliance with research policies. The appropriate research approval number should be documented on all receipts before payments are issued. For appropriate guidelines with regards to Human Subject Compliance, please consult with KU center for Research.

Payments to Nonresident Aliens

Before any offer of payment is made to a nonresident alien, it is important to ensure a payment *can* be made. Just because an offer is extended and accepted a nonresident alien does not automatically mean a payment is legally possible. For this reason, it is strongly recommended the department is certain a payment can be made before entering into any agreement. For example, not having a visa or having a visa type that prohibits payment will result in payments to the nonresident alien being denied. Departments and recipients must also understand the net amount received may be less due to required withholding.

Anytime there is a desire to make a payment to a nonresident alien, the facts and circumstances surrounding the payment must be known. Before an offer is ever extended to any nonresident alien, some factors to consider are:

- Is the person allowed to receive a payment?
- What is their residency status for tax purposes?
- Is the payment subject to tax withholding, and if so, at what rate?
- Is the recipient eligible for a tax treaty exemption?
- Is the payment reportable?

Visas and Payments

Nonresident aliens receiving a payment must have a valid visa that permits the individual to accept a payment. Not all visas permit allow the recipient to receive a payment. Some common visas are listed in the table below. This is by no means a comprehensive or exhaustive list.

Common Visa Types

Visa Type	Notes
B-1	Business visitor. No work authorization. May receive honoraria and travel reimbursement.
B-2	Visitor for pleasure. No work authorization. May receive honoraria and travel reimbursement.
F-1	Students. Work authorized for sponsoring employer only.
F-2	Dependents of students. No work authorization.
H-1B	Professionals. Work authorization for the sponsoring employer only. Can only receive compensation as an employee.

Visa Type	Notes
J-1	Exchange visitors, includes students. Work is authorized under certain circumstances for the sponsoring institution or entity designated by the sponsor, as allowed by the program.
J-2	Dependent. Work is authorized in certain circumstances.

Table 1--Adapted from *Nonresident Alien Tax Compliance: A Guide for Institutions Making Payments to Foreign Students, Scholars, Employees, and Other International Visitors*, Volume I, by Donna E. Kepley

Glacier

Glacier is an online tool for calculating residency status for tax purposes, withholding rates, withholding amounts, and tax treaty benefits. Glacier also provides Payables the necessary forms pertaining to payment. The recipient will receive an email and enter their information. Once the documentation when the information is complete, the individual will print and sign the glacier tax summary and then submit it to the SSC. In order to allow any tax treaty benefits, the recipient must have a U.S. issued social security number or ITIN (individual taxpayer identification number). Persons needing an ITIN may contact Legal Services for Students.

Type of payment required documentation

Payment Type	Required Documentation
Every NRA	<ul style="list-style-type: none"> • Color Copy of VISA (unless VWT) • Color copy of Passport (must show expiration date and foreign individuals picture) <ul style="list-style-type: none"> J1 needs DS-2012 or approval level from sponsor F1 needs I-20 • Glacier Tax summary report <ul style="list-style-type: none"> Can be completed 30 days prior to entry date Email lisahetrick@ku.edu the individuals name and email to set them up in glacier • I-94
Award	<ul style="list-style-type: none"> • See above for every NRA payment • Award form (https://procurement.ku.edu/WRUKIc) • Cannot be paying for a service • Can only use 725 funds
Fellowship	<ul style="list-style-type: none"> • See above for every NRA payment • Fellowship form (https://procurement.ku.edu/FKSvrl and select Scholarship/Fellowship form)

Payment Type	Required Documentation
Honoraria	<ul style="list-style-type: none"> • See above for every NRA payment • Contractual services form stating they are being paid honoraria • Cannot be paying for service • Can only pay B1/B2/J1/WT • Must follow the 9/5/6 rule for B1/B2 (activity cannot last longer than 9 days and visitor cannot have accepted payment from more than 5 institutions in past 6 months) • Need honoraria statement signed by individual
Service	<ul style="list-style-type: none"> • See above for every NRA payment • Contractual service form (https://procurement.ku.edu/csF17)
Tax exempt	<ul style="list-style-type: none"> • 8233 form signed by individuals

Checklist

Below is a checklist intended to be a tool in helping ensure a smooth payment process. It is not meant to be inclusive of every situation that may arise.

- Confirm the recipient is not a U.S. citizen or resident alien
- Does the payment fit into one of these five categories?
 1. *Payments for services*
 2. *Honorariums*
 3. *Cash awards to non-employee students*
 4. *Travel reimbursement*
 5. *Research participants*
- Does the recipient have a visa type allowing a payment?
- Does the recipient have a U.S social security number or ITIN?
- Has the recipient completed information in Glacier?
- Has a W-8BEN form been obtained?
- Has a high resolution copy of the Visa and Passport been obtained for documentation?
- Have I contacted Payables with my questions?

Questions

For questions about processing payments to nonresident aliens, please contact Lisa Hetrick (864-5942, lisahetrick@ku.edu)