

Subject: Payments to Foreign Nationals (except salary/wage payments)
For information regarding Employment of Foreign Nationals please see Personnel Policy 124: <http://www.rochester.edu/working/hr/policies/pdfpolicies/124.pdf>.

Applies to: All Faculty and Staff Members

This policy promotes the proper stewardship of University funds by providing general guidelines for the appropriate and legal uses of University funds in support of the University's missions. The University receives, from a variety of sources, funds that carry with them fiduciary responsibilities. Inherent in these responsibilities is the requirement to operate the institution under guidance set forth by the Board of Trustees, to follow Generally Accepted Accounting Principles (GAAP), and to comply with all federal, state, and local rules and regulations.

Under tax law, certain transactions are not allowed. Others are subject to tax reporting, tax withholding, or both. Still others are subject to a variety of miscellaneous taxes.

I. Policy:

All other University Finance policies and procedures apply in addition to those stated in this document.

All offers of reimbursements, travel payments, honoraria, royalties, or other payments to nonresident aliens (NRAs) are contingent on the NRA entering the United States on a visa that allows them to receive payments. Some NRAs may be given compensation while others can only be reimbursed for expenses. Still others may not be given any form of payment. IRS regulations limit the types of payments NRAs receive.

To determine an NRA's eligibility for payments from the University, the NRA must complete their individual record in GLACIER. Based on the information provided by the NRA, GLACIER will determine what types of payments the NRA is eligible for and what, if any, taxes must be withheld from those payments.

II. Guidelines:

A) **Requesting payment:** Payments to NRAs, except for salary/wages, must be requested via an RFP (F-4) form to Accounts Payable. All other payment methods (including, but not limited to, petty cash) are unacceptable. This applies to payments to research subjects as well, even if all other research subjects in the same study are paid via a different method.

B) **Citizenship/Residency question:** The citizenship/residency question must be answered on all RFP (F-4) forms for all payment requests except for the purchase of goods. Failure to answer this question prior to submitting paperwork to Accounts Payable will result in delays.

- C) **SSN/ITIN:** If the NRA does not provide a social security number (SSN) or individual taxpayer identification number (ITIN) when completing their GLACIER information, 30% taxes will be withheld from their payment. The University is not obligated to refund this money to the NRA should they provide a SSN/ITIN at a later date. The NRA may report the withheld amount if they file their income tax return at yearend.
- The department and the NRA have the option of waiting for the ITIN to be assigned and receiving appropriate payment once the NRA updates GLACIER with their ITIN. Please note tax withholding will still be based on individual circumstances as determined in GLACIER and therefore 30% tax withholding may still be appropriate when the ITIN is recorded in GLACIER.
- D) **Default tax-withholding rate:** If the NRA cannot claim a treaty exemption, 30% taxes will be withheld from their payments.
- Funding from some federal and state sources explicitly prohibit payment of taxes with their funds. University Finance strongly recommends not grossing up payments.
- E) **Prizes/Awards:** Treaty exemptions are never available for prizes and awards. Therefore, 30% taxes will be withheld from all prize/award payments to NRAs, including NRAs that are employees, which receive their prize/award payments through Payroll.
- Departments should have a consistent policy/procedure for all prize/award recipients (including U.S. citizens and permanent residents).

For example, if a US citizen award recipient receives a prize for \$100 then the same prize given to an NRA would be \$70. The US citizen receives the full amount of the prize but is taxed on the prize at their appropriate rate when they file their income tax return at the end of the year. The NRA receives the net amount at time of payment according to IRS rules. Both the U.S. citizen and NRA prize recipients gross the same \$100 prize. Both requests would indicate a prize amount of \$100 and AP/Payroll systems/procedures would correctly produce a \$100 check for the U.S. citizen and a \$70 check for the NRA.

F) **Travel Reimbursements:**

- 1) In general, travel reimbursements to NRAs are taxable if no service is being performed. Taxes will be withheld from these reimbursements based on the individual's GLACIER results.
- 2) When service is being performed, travel reimbursements are not reported to the IRS and taxes are not withheld as long as receipts and/or proper documentation of the travel expenses is provided to Accounts Payable.

- 3) Travel reimbursements to NRA students, including potential students, receiving a non-service scholarship/fellowship are income and therefore subject to tax withholding and reporting.
- 4) Travel reimbursements to NRA employees, including potential employees, are not subject to tax or reporting as long as receipts and/or proper documentation of the travel expenses are provided to Accounts Payable.

G) Work performed outside the United States: If the NRA is working outside the U.S., tax withholding and reporting are not normally required. The department should include documentation and/or a statement indicating that the individual performed the services outside the U.S.

H) Specific visa information: Honoraria, including payments for research participation, should not be paid to holders of the following visa types: B2, WT, A1, and A2. However payment can be made, for B2 and WT visa holders, if the person was already present in the U.S. prior to the invitation to speak (honoraria engagement). The letter of invitation/engagement announcement should be attached as supporting documentation.

- 1) B2 and WT visas are given to people entering the U.S. whose primary purpose is tourism. There are only certain academic activities for which it is acceptable to pay B2 or WT visa holders for their visits.
- 2) A1 and A2 visas are given to diplomats, which should not be given or accepting payments for their visits.

III. Procedures:

Given the additional information and documentation requirements, standard RFP timeframes do not apply for payments to NRAs. Just as each individual's circumstances will determine what, if any, payments they may receive, the time it takes to compile the appropriate documentation and issue payment will vary as well.

Department: The department should complete these tasks as soon as possible, preferably before the NRA enters the country in case there are questions that need to be researched or in order to improve the chances of paying the NRA before they leave the University.

- A) Except when goods are being purchased, the department must ask the payment recipient if they are an U.S. citizen or permanent resident. The department needs to put the appropriate response on the RFP (F-4) form. If the question is not answered, Accounts Payable will contact the Requestor/Approver to resolve.
- B) If the payment recipient is not a U.S. citizen or permanent resident, the department must obtain an email address for the payment recipient.

- C) The department should email to Marta Herman, the Accounts Payable Nonresident Alien Tax Specialist, at mrta@finance.rochester.edu the payee's email address. The subject of the email should indicate "GLACIER" so that these requests are more readily identifiable.
- D) The department should give a copy of the "U.S. Tax Information for Nonresident Alien Consultants and Guest Speakers" letter to the payment recipient. While the letter refers to "consultants" and "guest speakers" the contents of the letter apply to all NRAs receiving payments through Accounts Payable.
- E) The department should inform the NRA how much they will be paid, their relationship with the University and the type of income they will be receiving. The GLACIER checklist may be used to assist the department with this communication.

The NRA, when completing their individual record in GLACIER, will be asked about their relationship with the University and type of income. If you are giving the NRA:

- Guest speaker fees, honoraria, or travel reimbursement when no services performed, then
 - Relationship = Guest Speaker
 - Income Type = Honoraria or Guest Speaker Fee
 - Consulting fees, then
 - Relationship = Consultant
 - Income Type = Consulting Fee
 - Performance fees, then
 - Relationship = Artist/Performer
 - Income Type = Performance Fees
 - Prizes or Awards, then
 - Relationship = Other
 - Income Type = Prize or Award
 - Research subject fees, then
 - Relationship = Other
 - Income Type = Research Subject
 - Industrial/Copyright Royalties, then (respectively)
 - Relationship = Industrial/Copyright Royalty Recipient
 - Income Type = Industrial/Copyright Royalty
- F) The department completes the RFP (F-4) form and submits it to Accounts Payable via normal procedures with any supporting documentation.

Accounts Payable:

- G) The Accounts Payable Nonresident Alien Tax Specialist creates a GLACIER password for the NRA. If an email address was provided, the NRA will be emailed their instructions immediately.

Nonresident Alien: The NRA should complete these tasks as soon as possible, preferably before the end of their visit at the University in case there are questions or if they would like to improve their chances of receiving payment before they leave.

H) The NRA will receive an email with their password and instructions for accessing GLACIER. The NRA must complete the questions prompted by GLACIER. GLACIER customizes questions for each person based on responses to previous questions answered. Upon completion of their GLACIER record, GLACIER will instruct them as to which forms and documents need to be completed and provided to Accounts Payable so that they can receive payment from the University. The NRA is responsible for sending in their ITIN request form (W7), if necessary, to the IRS and all required documents to AP in a timely manner.

Accounts Payable:

- I) When Accounts Payable receives an RFP where the citizenship/residency question is answered “No” AP will go to GLACIER. AP will be able to see if the NRA’s record is complete and if so, what documentation to be expecting from the NRA as well as instructions on what, if any, taxes must be withheld.
- J) AP reviews documentation submitted by the NRA and codes the RFP for appropriate payment and tax withholding.
- K) AP must mail the Form 8233, when provided, to the IRS for tax exemption approval. Finance strongly recommends mailing payment directly to the NRA.