

PAYMENTS TO NON-EMPLOYEE NONRESIDENT ALIENS

Procedure 6.b.06

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I. Procedures

- A.** If at all possible, before your guest arrives, please determine if your guest will be entering the country with a payable visa status/type. Certain visa statuses/types have restrictions that would prevent KUMC Research Institute (KUMCRI) from issuing payment to your guest:
http://www2.kumc.edu/researchinstitute/spa/documents/Nonresident_Alien_Visa_Types.pdf
- B.** After arrival, or at the time of participation in a Clinical Trial, have your guest complete the KUMCRI Nonresident Alien Summary Form:
http://www2.kumc.edu/researchinstitute/spa/documents/Nonresident_Alien_Summary.pdf
- C.** **Be sure to obtain a copy of the I-94. The I-94 is required for payment for services performed in the U.S. Without the I-94, the visitor will not be eligible for payment because they will not be able to document their immigration status. The I-94 is collected upon departure from the U.S., so collecting this information after your guest leaves is impossible.**
- D.** Withholding
1. Federal: 30%
 2. State of Kansas: 5%
 3. There is no *de minimus*
- E.** Tax Treaties
If the recipient's tax country has an exemption from withholding due to a tax treaty, and the appropriate tax treaty exemption forms are completed and submitted to the KUMCRI's Accounts Payable office in a timely manner, then the tax withholding or a portion thereof may be waived. Please be aware that changes can be made to tax treaties after the dates that the treaties are posted on the IRS website; search for announcements regarding changes in the tax treaty. Updates can be found under IRS Publication 901, *U.S. Tax Treaties*: <http://www.irs.gov/publications/p901/index.html>.
A list of treaties may be found at:
<http://www.irs.gov/businesses/international/article/0,,id=96739,00.html>.
If a tax treaty is in place between the United States and the nonresident alien's tax country, the nonresident alien has an option of claiming the treaty, or not. If the treaty is claimed, the nonresident alien will need to obtain a SSN or ITIN and complete Form 8233, *Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual*. If the treaty is not claimed, compensation will be subject to withholding.
- F.** **"Grossing Up"**
"Grossing Up" is not an allowable expense on a federally-funded project. The RI does not allow "grossing up" on any project.

II. Types of Payments

A. Travel

1. **Per IRS guidelines, all Travel is subject to withholding. Exemptions exist to waive this withholding requirement. Travel not covered under the IRS Accountable Plan Rule will be subject to withholding** (see KUMCRI Travel Policy 6.1.01:
http://www2.kumc.edu/researchinstitute/spa/SPA_Forms/Travel.pdf
2. Travel is not covered by any tax treaty.
3. Withhold at 30% Federal; 5% State.

B. Independent Personal Services (speakers, presenters, collaborators, lecturers and other professional services)

1. KUMCRI Contractual Services Form
http://www2.kumc.edu/researchinstitute/spa/SPA_Forms/Contractual%20Service%20Form.doc
2. Form 8233 if claiming a tax treaty.
3. KUMCRI Nonresident Alien Summary
4. Process through PeopleSoft and submit all original paperwork to KUMCRI Accounts Payable. Keep one set of copies for your records.

Example for payment reflecting withholding:

Payee	Vendor Code	Account Code	Account Code Type	Amount
John Smith	NRA	2501	Guest Speaker	1000.00
John Smith	NRA	022170	NRA W/H – Federal	(300.00)
John Smith	NRA	022175	NRA W/H – State	(50.00)
			Check total:	650.00

Example for payment reflecting a tax treaty:

Payee	Vendor Code	Account Code	Account Code Type	Amount
John Smith	NRA	2501	Guest Speaker	1000.00

C. Human Research Subjects in Clinical Trials

1. Due to a reclassification on the IRS Form 1042-S, *Foreign Person’s U.S. Source Income Subject to Withholding*, participants in a clinical trial are no longer considered “independent contractors”.
2. There are no tax treaty benefits under the new classification. Withhold at 35% (30% Federal, 5% State).
3. F/J Students may be reimbursed for participation in a clinical trial.
4. The Study Coordinator should determine the residency status of the participant.
 1. If U.S. Citizen or Resident Alien for Tax purpose, process as usual.
 2. If Nonresident Alien, collect KUMCRI Nonresident Alien Summary Form. **DO NOT collect information from a participant on a Contractual Services Form.**
5. Process through PeopleSoft as follows:

Payee	Vendor Code	Account Code	Account Code Type	Amount
John Smith	NRA	5700Q	Human Subject/Participant	150.00
John Smith	NRA	022170	NRA W/H – Federal	(45.00)
John Smith	NRA	022175	NRA W/H – State	(7.50)
			Check total:	97.50

D. Scholarships/Fellowships

1. “Qualified” expenses (tuition and fees, books) are not subject to withholding. Process as usual.
2. For “unqualified” expenses (travel, room and board, service-related research), withhold at 19% (14% Federal; 5% State) for F, J, M or Q students; withhold at 35% for all others, if not treaty-eligible.
3. **Form W-8BEN**, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding*, if claiming a tax treaty. Withhold at appropriate amount if reduced rate.
4. Process through PeopleSoft and submit all original paperwork to KUMCRI Accounts Payable. Keep one set of copies for your records.

Example of Travel Reimbursement for F,J,M,Q student:

Payee	Vendor Code	Account Code	Account Code Type	Amount
Jane Smith	NRA	2501	Travel (unqualified)	728.00
Jane Smith	NRA	022170	NRA W/H – Federal	(101.92)
Jane Smith	NRA	022175	NRA W/H – State	(36.40)
			Check total:	589.68

E. Royalties

1. Withhold at 35%
2. If treaty-eligible, collect completed **Form W-8BEN** if nonresident alien is eligible to claim tax treaty benefits.
3. Process through PeopleSoft and submit all original paperwork to KUMCRI Accounts Payable. Keep one set of copies for your records.

F. Prizes and Awards

1. Prizes and awards are not tax treaty-eligible payments and will be subject to 35% withholding.
2. **Cash-equivalent payments are subject to withholding. The department will need to determine the fair market value of the cash-equivalent payment and either provide those funds to remit to the IRS and State from a residual account*, or collect the withholding amount from the recipient.**

*Residual Accounts: A Residual Account is created for each Principal Investigator (PI) to hold remaining funds from closed and completed industry sponsored project accounts.

III. More Definitions and Links

Immigration and Naturalization Services Form I-94: Arrival/Departure Records issued by U.S. Customs and Border Protection at the Port of Entry, http://www.uscis.gov/propub/DocView/afmid/dat/I_94.PDF

Internal Revenue Service Form 8233: Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual. Form 8233 must be filed to claim a tax treaty, <http://www.irs.gov/pub/irs-pdf/f8233.pdf>

Internal Revenue Service Form W-8BEN: Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding, <http://www.irs.gov/pub/irs-pdf/fw8ben.pdf>

ITIN, form W-7: <http://www.irs.gov/pub/irs-pdf/fw7.pdf>

Social Security Numbers: <http://www.ssa.gov/pubs/10096.html>

Passport: An official document issued by the government of a country to one of its citizens and, varying from country to country, authorizing travel to foreign countries and authenticating the bearer's identity, citizenship, right to protection while abroad, and right to reenter his or her native country.

Visa: A U.S. visa allows the bearer to apply for entry to the U.S. in a certain classification. A visa does not grant the bearer the right to enter the United States. The Department of State (DOS) is responsible for visa adjudication at U.S. Embassies and Consulates outside of the U.S. The Department of Homeland Security (DHS), Bureau of Customs and Border Protection (BCBP) immigration inspectors determine admission into, length of stay and conditions of stay in, the U.S. at a port of entry. The information on a nonimmigrant visa only relates to when an individual may apply for entry into the U.S. DHS immigration inspectors will record the terms of your admission on your Arrival/Departure Record (I-94 white or I-94W green) and in your passport.

IRS Form 1040NR-EZ <http://www.irs.gov/pub/irs-pdf/f1040nre.pdf>

IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities:
<http://www.irs.gov/pub/irs-pdf/p515.pdf>

IRS Publication 901, U.S. Tax Treaties: <http://www.irs.gov/publications/p901/index.html>

IRS Tax Treaties: <http://www.irs.gov/businesses/international/article/0,,id=96739,00.html>

United States Immigration Support: <http://www.usimmigrationsupport.org/>

Visa Waiver Countries: http://travel.state.gov/visa/temp/without/without_1990.html#countries

NB: Be sure all forms are complete and in ink. The IRS will not accept incomplete forms.