

FOREIGN NATIONALS WORKING IN THE U.S.

A foreign national is defined simply as “an individual who is a citizen of any country other than the United States.”

Certain types of payments to a foreign national may be taxable, while other payments to the same person are not. Also, payments that are taxable to one foreign national may not be taxable to another because of a tax treaty. It is important for the University to determine the taxable amount of each type of payment made to a foreign national in order to know whether withholding is required.

Nonresident Aliens vs. Resident Aliens for Tax Purposes

Immigration terminology and definitions are not the same as tax terminology and definitions, therefore a nonresident alien for tax purposes is different than a nonresident alien for immigration purposes. A foreign national must be correctly classified in order to avoid potentially serious problems including:

- An unexpected tax bill at the time of departure from the U.S.
- Penalty and interest charges for both foreign national and sponsoring department
- Negative impact on future visa or immigration applications

See the chart, Comparison of Nonresident Alien vs. Resident Alien for Tax Purposes

(<http://isaacbrocksociety.ca/wp-content/uploads/2017/01/RO4.jpg>) for detailed differences.

Type of Income	Current Tax System	Proposed Territorial Tax System
Wage, salary, pension, dividend, interest commission, services, etc. income (fixed, determinable, annual and period income ‘FDAP Income’) earned in the U.S. (from whatever source) by any Citizen resident in the U.S. and any alien individual resident in the U.S. (‘Resident Alien Individual’)	Fully Taxed	Fully Taxed, except that dividends paid by actively managed and/or controlled foreign corporation (or other entity) to its controlling shareholder(s) would not be taxed to the extent such earnings are not derived from a business engaged within the U.S.
FDAP Income paid by U.S. bank, corporation or other U.S. entity to a Citizen not resident in the U.S. or alien individuals not resident in the U.S. (‘Non-Resident Alien Individuals’).	Taxed for Citizen (subject to 911 exclusion where applicable). Taxed for Non-Resident Alien Individuals but significantly reduced or eliminated by most treaties	Taxable (eliminate Section 911 exclusion) Instruct Treasury to negotiate for removal of Treaty Benefits and provide for full taxation at 30% withholding
FDAP Income paid by non-U.S. bank, corporation or other Non-U.S. entity to Citizen not resident in the U.S. or Non Resident Alien Individuals	Taxed for citizens (subject to 911 exclusion) Not Taxed for Non Resident Alien Individuals	Not Taxed No change

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Capital gains on sales of any assets, tangible or otherwise, located in the U.S. and securities of corporations or other entities organized within the U.S.	Fully taxed for Citizens and Resident Alien Individuals Gains from sale of U.S. real property and real property holding	Not Taxed No change
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Determining Residency for Tax Purposes

A foreign national becomes a resident alien for tax purposes by passing either the “green card” or “substantial presence” tests as described in IRS Publication 519, U.S. Tax Guide for Aliens. See the chart, Determination of Nonresident Alien for Tax Purposes by Visa Type (Appendix 1) for further information

Green Card Test

If a foreign national has been issued a Permanent Resident Card, also known as a green card or USCIS Form I-551, the person is said to have passed the “green card” test.

The right to lawful permanent residence is granted at the time of the final interview with the U.S. Citizenship and Immigration Services (USCIS) or the U.S. Department of State (DOS) officials and can be evidenced not only by the Permanent Resident Card but also by a stamp in the applicant’s passport which states “temporary evidence of lawful permanent status”. The Permanent Resident Card may not be manufactured or mailed for several months after the final interview, and this stamp provides immediate proof of permanent status.

Substantial Presence Test

COUNTING DAYS

A person is a resident alien for tax purposes for the calendar year if she or he meets the “substantial presence” test. The visa type dictates if there are any years in which a nonresident alien is exempt from the “substantial presence” test. See chart Determination of Nonresident Alien for Tax Purposes by Visa Type (Appendix 1). The person must be physically present in the U.S. on at least:

- 31 days during the current year, and
- 183 days during the three year period that includes the current year and the two preceding calendar years, counting:
 - All of the days the person was present in the current year, and
 - 1/3 of the days the person was present in the first preceding year, and
 - 1/6 of the days the person was present in the second preceding year

DAYS NOT COUNTED

- J-1 non-student visa holder (professor, researcher, etc.), who is substantially complying with the requirements of the visa, does not count days present in the first two calendar years

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- F-1 or J-1 student visa holder, who substantially complies with the requirements of the visa, does not include days present in the first five calendar years

Note: The counting rules are based on calendar years, not twelve-month periods and days counted do not need to be consecutive.

SUBSTANTIAL PRESENCE TEST EXAMPLES

Circumstances that Disqualify Foreign Nationals from the Substantial Presence Test

A person will not meet the substantial presence test if (1) they are present in the U.S. on fewer than 183 days during the current year, and (2) if they establish that they have a tax home in a foreign country in the current year, and (3) that they have a “closer connection” to that foreign country than to the U.S. The closer connection exception is discussed in detail in IRS Publication 519, U.S. Tax Guide for Aliens: <https://www.irs.gov/pub/irs-pdf/p519.pdf>.

To retain nonresident status after five years, F-1 student visa holders must establish that they have a closer connection with the foreign country than to the U.S.

Closer Connection Exception to the Substantial Presence Test

Even though a foreign student may pass the substantial presence test, an exception exists in U.S. law which would allow the foreign student to continue to be treated as a nonresident alien.

The Internal Revenue Code contains **two exceptions to the substantial presence test** which can be used by aliens to maintain nonresident status. First, there is *the general exception* to the substantial presence test available to all aliens under I.R.C. § 7701(b)(3)(B) and (C) and Treas. Reg. § 301.7701(b)-2 (known as the closer connection exception). Most foreign students cannot use this exception, however, because of the requirement that the alien cannot have been physically present in the United States during the current year for more than 183 days, and the requirement that the alien’s tax home be located outside the United States. Most foreign students fail both of these tests.

The second exception to the *substantial presence test for aliens* is set forth in I.R.C. § 7701(b)(5)(D) and (E) and in Treasury Regulation § 301.7701(b)(7)(iii). The exception is available only to alien students (not teachers/researchers, etc.) and contains four requirements for its application. The student:

1. Does not intend to reside permanently in the United States;
2. Has substantially complied with the immigration laws and requirements relating to his student non-immigrant status;
3. Has not taken any steps to change his non-immigrant status in the United States toward becoming a permanent resident of the United States; and
4. Has a closer connection to a foreign country than to the United States as evidenced by the factors listed in

Treasury Regulation 301.7701-2(d)(1). The burden of proof is on the student to prove these four factors. To claim the exception for students on an income tax return, a student should attach Form 8843 to Form 1040NR or 1040NR-EZ.

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Federal Withholding Taxes and Tax Treaties | All payments made to a nonresident alien are taxable unless specifically exempt from tax by IRS Code or a treaty. See the Federal Withholding Tax for Foreign Nationals webpage.

TYPES OF PAYMENT

Foreign nationals are strictly limited in what sources of income they are authorized to accept and all payments are taxable unless an exception under a treaty or IRS code applies.

AWARD, PRIZE OR RESEARCH SUBJECT

Payment as a reward or recognition for a special achievement such as winning a judged competition or payment for participation as a research subject.

- Standard taxation rate: 30%

EMPLOYEE WAGES

Hiring a foreign national as a YOUR employee must adhere to multiple governmental and university procedures. Graduated income tax tables apply.

HONORARIUM

Payment to an individual for a presentation-oriented, guest lecture or invitational event. Standard taxation rate: 30%. The process for paying an honorarium to a foreign national is complex because three separate government departments are involved.

1. The Department of State issues the visa that allows a foreign national to apply for entry into the U.S.
2. The Department of Homeland Security issues the form that permits a foreign national to enter the country.
3. The Internal Revenue Service issues forms necessary for collecting taxes and applying for a tax identification number.
4. The University of Washington collects forms.

INDEPENDENT CONTRACTOR AND PERFORMER SERVICES

Standard taxation rate: 30%

LIVING ALLOWANCES

Payments made to support a foreign national coming to Seattle. Can be issued without an honorarium. Generally not considered taxable income.

ROYALTY OR RENT

Payments made for the use of intangible (royalty) or tangible (rent) property. Various tax rates apply up to 30% withholding - see IRS Publication 515 for specific details.

SCHOLARSHIP AND FELLOWSHIP AWARDS – PAID THROUGH STUDENT FISCAL SERVICES

A one-time payment to assist a student in pursuing a course of study or research. Generally not considered taxable income if the recipient is a candidate for a degree and the award is used to pay for tuition, fees and/or other mandatory books, supplies, and equipment required for all students in course of study.

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SERVICE PAYMENTS TO A FOREIGN ENTITY

Payments made to foreign companies or entities. Standard taxation rate: 30%

STIPEND – PAID THROUGH PAYROLL

Ongoing payment intended to support an individual engaged in academic activity at the YOUR. Standard taxation rate: 14%

TRAVEL REIMBURSEMENT

Travel reimbursements are made to compensate an employee or visitor for expenses incurred while traveling on university business. Travel reimbursements are not considered taxable income.

Honorarium

An honorarium is a payment to an individual for a presentation-oriented, guest lecture or invitational event. Before committing to an honorarium for a foreign national, departments must ensure the person has the appropriate visa that allows such a payment. For short-term visits made for the purpose of delivering a lecture or speech, only certain visa classifications are authorized to accept an honorarium. An individual already in the U.S. may not necessarily be here in the correct visa classification. For instance, diplomats, employees of foreign governments, military personnel, or others on foreign government representative visas, employees of the World Bank or political officers attached to a foreign embassy in the U.S. hold visa classifications specific to the duties of their posts and are not permitted to earn additional income through activities such as speaking engagements.

Do not assume that an international visitor holds the correct visa classification, especially if he or she is already in the U.S. You must look at additional sources of information that could include the individual's passport visa or stamped I-94 card to determine visa classification.

What Activities Can Be Paid Through an Honorarium

An honorarium may be paid to a foreign national for "usual academic activity or activities." These activities include lecturing, teaching and sharing of knowledge or performance (when the audience is composed of non-paying students and/or is open to the general public free of charge).

Honorarium Rule ("9/5/6" Rule)

Foreign nationals in B-1, B-2, VWB, and VWT status may accept an honorarium and/or reimbursement of travel expenses under the following conditions:

- For "usual academic activity or activities"
- 9 days or less at the YOUR
- The individual has accepted such payment from no more than five educational or research institutions in the previous 6-month period.

EXAMPLE: Dr. Jones from New Zealand is invited by the Geology Department to give a talk for which he will be paid an honorarium and expenses. This is his first trip on a B-1 visa to the U.S. He will be on the Seattle campus for five days. During this trip in the U.S. he is also giving talks at four other universities. Dr. Jones has now used the full benefits provided by the honorarium rule. He will not be able to accept an honorarium from another U.S. university for another six months.

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Who's Eligible to Receive an Honorarium

- B-1 or B-2 provided the individual meets the conditions of the Honorarium Rule.
- VWB (Visa Waiver Business) or VWT (Visa Waiver Tourist) provided the individual meets the conditions of the Honorarium Rule. NOTE: If the event for which the honorarium is offered is arranged before the individual travels to the U.S., the individual must seek admission as a B-1 or VWB non-immigrant.
- J-1 scholars at the YOUR or from another university for an occasional lecture at the YOUR, if permitted by sponsoring institution.
- H1-B, E3, TN and O-1 visa holders may receive an honorarium only if they are sponsored by the YOUR. (H-1B, E3, and O-1 visa holders at another university may only receive reimbursement for travel and/or incidental expenses, not an honorarium for academic activity at the YOUR.) The payment must be processed through the Payroll Office.

Visa Waiver Program

Foreign nationals from a participating country in the Visa Waiver Program (VWP) do not have to have a visa to enter the U.S. for business or tourist travel. However, they must have a machine-readable passport valid for six months past their expected stay in the U.S. (unless a country-specific agreement provides an exemption). The foreign national may stay in the U.S. for business or tourist purposes for a maximum of 90 days. No extension of the stay is allowed.

As of September 2010, travelers from a VWP country no longer complete an I-94W. Instead, they must submit their request for a travel authorization to the U.S. through the ESTA Program (Electronic System for Travel Authorization). Travelers complete the ESTA on-line form before entering the U.S. Prior to boarding, the carrier will electronically verify with U.S. authorities that the traveler has an approved travel authorization file through ESTA. See the ESTA FAQ web site for more information: <http://www.esta.us/faq.html>.

For more information on which countries are in the program, see the Department of State website about the Visa Waiver Program: <http://travel.state.gov/content/visas/en/visit/visa-waiver-program.html>.

Note: If an honorarium payment is being offered and arrangements are made before the individual travels to the U.S., the individual must seek admission under the VWB classification.

Withholding

An honorarium paid to a foreign national is subject to 30% withholding, unless the person can claim a tax treaty benefit. This withholding also applies to a nonresident alien entity. Travel reimbursement is not subject to withholding because it is generally not considered income.

Letter of Invitation

A letter of invitation must be sent to every foreign national invited who will receive payment for services or travel expenses. The letter should come from the department that is sponsoring the activity. The letter should contain the following information:

- Detailed description of the event or activity
- Date of the event
- The amount of any payment that will be made

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- Whether travel and/or incidental expenses will be reimbursed
- Contact information at the sponsoring YOUR department for further information

Reimbursement When Foreign National Exceeds Honorarium Rule

The Honorarium Rule limits how many times over a 6-month period a foreign national holding a “B-1” status visa, or visa waiver business, may receive an honorarium and/or travel reimbursement. Foreign nationals holding a B-1/VWB or B-2/VWT visa who exceed the rule are not prohibited from giving an invited lecture at the YOUR. However, they cannot receive an honorarium. Only foreign nationals holding a B-1/VWB may receive reimbursement for travel and/or incidental expenses, up to nine days.

EXAMPLE - B-1 VISA: Dr. Yang, a resident of Hong Kong, has been paid an honorarium for lectures at five U.S. universities in the past three months. He has now been invited to the YOUR to give a talk by the Department of Economics. He’s traveling in the U.S. on a B-1 visa. Dr. Yang cannot be paid an honorarium for the YOUR talk but can be reimbursed for reasonable travel and/or incidental expenses. Request for travel reimbursement with documentation should be sent to the YOUR Travel Office.

Honorarium Payment to J-1 Scholars

J-1 scholars sponsored by the University of Washington may receive compensation for occasional lectures or short- term consultations at the YOUR or at another university that involve wages or other remuneration. The occasional lectures or consultations must be authorized in advance and in writing by the sponsoring institution listed on Form DS-2019.

To qualify for compensation authorization, the off-campus activity must meet all of the following:

- Be short-term or occasional in nature;
- Be an exchange of expertise which would further the goals of international educational exchange;
- Relate to the objectives for which the exchange visitor came to the U.S.;
- Benefit the exchange visitor’s professional career development with only incidental benefits to the employer;
- Not delay the completion date of the scholar’s program.

Written Work Authorization

To request authorization to engage in occasional lectures or short-term consultations involving wages or other remuneration, the J-1 scholar should take the following steps:

1. Present the letter of invitation from the institution offering the honorarium to his/her home department.
2. Ask the home department to authorize in writing permission to participate in the activity.
3. Ask the home department to forward the authorization to the International Scholars Office (ISO) for their review and authorization.

The ISO reviews the letters and makes a written determination that the activity is warranted and that it will not interrupt the scholar’s original objective. The ISO will also document the new activity in SEVIS (a government database that maintains information on exchange visitors during their stay in the U.S.). Activity and compensation will be listed on revised Form DS-2019.

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J-1 Scholars-Sponsored by another University

A J-1 scholar at another university may be invited to the YOUR to give a lecture or participate in a sanctioned academic activity on an occasional basis. The scholar must obtain written authorization for the activity from the sponsoring university's Responsible Officer in the ISO Office in advance of the activity. The written authorization must be included with the paperwork that is forwarded to Accounts Payable as part of the request for a check.

Immigration and Tax Forms for an Honorarium Payment to a Foreign National

The process for foreign nationals to be paid an honorarium and/or travel reimbursement is complicated and has multiple facets. The foreign national must travel on the correct visa; the department needs to do advance planning; tax treaty benefits may impact the tax rate for the honorarium; and, several different types of forms are needed for the payment.

The following is an overview of the process for paying an honorarium to a foreign national for academic activity in the U.S. Use the checklist, *Inviting & Paying an Honorarium to a Foreign National*, (Appendix 4), to facilitate this process for each invitation. Maintain a copy of the checklist in department files for audit purposes.

1. The department confirms with the foreign national whether or not he or she meets the Honorarium Rule, if coming to the U.S. on a B visa or from a visa waiver country.
2. If the foreign national is a J-1 scholar, the department explains the requirement for written authorization from the sponsoring institution.
3. The foreign national determines if he or she is eligible for a tax treaty benefit.
4. If eligible, the department determines if the person has either a Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN). If the foreign national doesn't have either and would like to apply for an ITIN to claim a tax treaty benefit, the department makes an appointment for the individual to complete the application process when on campus. A U.S. taxpayer ID number is required in order to receive a tax treaty benefit.
5. The department sends invitation letter to foreign national with details about the activity. This letter is required when applying for a B visa.
6. The foreign national applies for a B visa if traveling from a country not in the Visa Waiver Program (VWP). The visa is issued by the U.S. Department of State. The visa stamp is affixed to the passport with one of these possible notations: B-1; B-2 or the B-1/B-2 (NOTE: B-1 is YOUR preference). Foreign nationals from a VWP country must complete an on-line form through the ESTA program.
7. At port of entry to U.S., the individual presents passport with visa and a letter of invitation to immigration authorities who will gather the individual's travel records electronically. The visitor will have digital photographs and fingerprints taken.
8. Once the foreign national complete a Foreign National Payment Data Sheet. (Appendix Forms).
 - The department makes a copy of the foreign national's passport identity page, passport page with port of entry stamp (if citizen of VWP country) and visa, if applicable. For J-1 scholar, the department makes copy of work authorization letter from YOUR ISO and a copy of their DS 2019.
 - If the foreign national can claim a tax treaty benefit but doesn't have a tax identification number (i.e., SSN or ITIN), the department schedules an appointment for the foreign national to apply for one. The foreign national applies, in person, at Accounts Payable Office for an ITIN.

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- If the foreign national can claim a tax treaty benefit, he/she also completes Form 8233, Exemption from Withholding on Compensation for Independent Personal Services of Nonresident Alien Individual. If payment is to an entity, the appropriate W-8BEN-E form is completed. If payment is to an individual, the appropriate W-8BEN form is completed.
- The department completes a check request form for honorarium payment (up to \$10,000). For an honorarium payment of \$10,000 or more, department creates a Purchase Order (PO) and submits an invoice voucher through Accounts Payable.
- The department submits an expense report (ER) through eTravel for the travel reimbursement. See the Travel Reimbursement section below for more information about the documents required for payment.

9. To request honorarium under \$10,000: the department sends the following to Accounts Payable:

- Check request form for the honorarium. In status box, mark “Non-Resident Alien.”
- Copy of visa and/or copy of passport page with port of entry stamp. NOTE: Be sure copy is readable.
- Copy of identity page from passport
- Copy of the person’s DS 2019 for J-1 scholars
- IRS Form 8233 or appropriate W-8 form, if a tax treaty benefit is available.

Note: For Canadian foreign nationals, if a passport is not available, a copy of the person’s enhanced driver’s license and social insurance card may be used.

10. To request travel expense reimbursement, the department sends the following to Accounts Payable:

- Expense report signed by foreign national
- Copy of visa and/or or copy of passport page with port of entry stamp. NOTE: Be sure copy is readable.
- Copy of identify page from passport. NOTE: Be sure copy is readable.
- Copy of their DS 2019 for J-1 scholars
- Copy of their I-20 for F-1 students

Note: **For Canadian foreign nationals**, if a passport is not available, a copy of the person’s enhanced driver’s license and social insurance card may be used. The check is distributed to the foreign national as indicated by the department in the “Special Instructions” box on the check request form. If there are no special instructions, the check is mailed to the national’s address noted on the form. The same disbursement process is followed for an invoice voucher or travel reimbursement.

Visa Examples: The following examples illustrate some common situations encountered by foreign nationals to engage in academic activities.

1. CANADIAN FOREIGN NATIONAL | The School of Drama decides to invite John White, director of a Canadian acting troupe, to give a guest lecture. The department sends Mr. White an invitation that includes the purpose of the visit and states that travel reimbursement will be paid. Mr. White will need to present either his passport or his driver’s license and social insurance card and complete the appropriate paperwork for travel reimbursement. Request for travel reimbursement would be sent to the Travel Office.

2. VISA WAIVER BUSINESS (VWB) FOREIGN NATIONAL | Dr. Schwartz, a resident of Germany, is invited to the YOUR to give a lecture in molecular biology and visit for two days. The Biology department offers

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to reimburse him for all expenses and pay an honorarium of \$2,000. Dr. Schwartz is from a country in the Visa Waiver Program, so he may enter the U.S. as a VWB or with a letter of invitation from the department. Because Germany has a tax treaty with the U.S., he is eligible to apply for treaty benefits to avoid the mandatory 30% tax withholding requirement. Since he has a Social Security Number, his honorarium payment will be for the full amount if he submits IRS Form 8233.

PAYING TAXES

University Responsibilities

Universities are responsible for maintaining compliance with both the letter and intent of all federal, state and local laws. Universities also have a responsibility to the foreign nationals who come to campus to pursue their education or other scholarly activities and to ensure that payments made are properly reported to the appropriate federal and state agencies. Proper reporting greatly reduces the potential for future tax or immigration problems for foreign nationals.

Sponsoring Department Responsibilities

University departments that host foreign nationals will generally be aware in advance of the actual arrival date that the visitor will be coming to the university. Accordingly, the hosting department or faculty member bears primary responsibility for ensuring that the visitor acquires the correct visa (or has the correct visa) so that payments made are in compliance with all requisite tax and immigration laws. Departments must insure that no payment of any kind is made to a foreign national unless the individual has been granted the appropriate authorization and visa status in advance of their arrival.

Either the International Scholars Office or the International Student Services Office must be contacted prior to making any contractual arrangement to pay a foreign national on an F-1 or J-1 visa. This applies to both non-student and student foreign nationals, and must be done in order to ensure that immigration laws are not violated. Such violations could lead to fines of up to \$10,000 for the University as well as detention or deportation of the foreign national. Departments should always follow the checklist(s) for making payments to foreign nationals to be certain of compliance.

Federal Withholding Tax for Foreign Nationals

All payments made to a nonresident alien (including, but not limited to, travel/business reimbursements, honorarium, scholarships/fellowships/stipends, wages, etc.) are taxable unless specifically exempt from tax by the IRS Code or a tax treaty.

U.S. TAX RESPONSIBILITIES OF FOREIGN NATIONALS

A foreign national's tax responsibilities are complex. Significant differences exist between how nonresident aliens and resident aliens for tax purposes are taxed. Nonresident aliens for tax purposes are only taxed on their U.S. source income. Consult the chart, Comparison of Nonresident Alien vs. Resident Alien for Tax Purposes (Appendix 2) for further information.

IDENTIFYING NONRESIDENT ALIEN (FOR TAX PURPOSES)

A nonresident alien (for tax purposes) must pay taxes on any income earned in the U.S. to the Internal Revenue Service, unless the person can claim a tax treaty benefit. This applies to students as well. Failure to pay the correct tax can result in an unexpected tax obligation when the individual leaves the U.S. or may jeopardize a future application for residency.

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There is a different tax structure for a nonresident alien compared to a resident alien. A nonresident alien (for tax purposes) may qualify for some tax relief through a tax treaty benefit, if one exists with the person's home country. Generally, a resident alien can't qualify for a tax treaty benefit. Resident aliens for tax purposes are taxed on their worldwide income.

Any tax amount, fines and penalties determined to be owed by the IRS will be charged to the department responsible for the foreign national.

If the foreign national has never lived in the U.S., generally:

- F & J students are NRAs for five calendar years
- J nonstudents are NRAs for two calendar years

If a foreign national has lived in the U.S. in the past, the individual must complete the Substantial Presence Test (see pg. 35). This test determines if the person has been in the U.S. enough time over the previous three years to be considered "substantially present" in the states. If the foreign national has been in the U.S. for 183 days or more in the past three years, the individual is considered a resident alien for tax purposes.

Federal Withholding Tax & Tax Treaties

In most cases, a foreign national is subject to federal withholding tax on U.S. source income at a standard flat rate of 30%. A reduced rate, including exemption, may apply if there is a tax treaty between the foreign national's country of residence and the United States. The tax is generally withheld from the payment made to the foreign national.

A tax treaty is a bilateral agreement between the United States and a foreign government. Tax treaties are intended to avoid double taxation, or having the income taxed by both countries. Each treaty is different and includes different exemptions. If a foreign national qualifies for an exemption because of a tax treaty benefit, little or no withholding will be taken from a payment. The foreign national must have a U.S. tax identification number in order to claim the benefit.

See the IRS Publication 515, Withholding of Tax on Nonresident Aliens & Foreign Entities for more information about which countries have treaties with the U.S. Note: Citizens of Hong Kong and Macao are not covered by the People's Republic of China tax treaty.

If you do qualify for a tax treaty benefit, visit the Forms Needed to Process Payments page for links to the appropriate form(s) to use to apply for the benefit.

Social Security and Medicare Taxes

In general, Social Security and Medicare (FICA) taxes apply to salary or wage payments made by U.S. employers to foreign national employees for services performed in the United States unless an individual qualifies for an exemption. In order to be exempt from FICA tax, a foreign national must be:

- A nonresident alien for tax purposes;
- Present in the United States under an F, J, M or Q immigration status;

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- Performing services in accordance with the primary purpose of the visa's issuance (i.e. F-1 student working as a TA).

Filing an Income Tax Return with the IRS

There are specific rules about filing an income tax return with the IRS that nonresident and resident aliens must follow. See IRS Publication 519, U.S. Tax Guide for Aliens for more information. Additional information and resources can be found at:

- International Student Services: <http://iss.washington.edu/tax-information>
- International Scholars Office: <http://ap.washington.edu/ahr/visas/scholar-resources/tax-info/>

Certificate of Compliance or "Sailing Permit"

A Certificate of Compliance or "Sailing Permit" must be requested from the IRS to demonstrate compliance with the tax law and verify that all required taxes have been paid before leaving the U.S.

F-1, F-2, J-1, H-2, H-3 and H-4 visa holders are not required to obtain a Certificate of Compliance if they had no U.S. source income other than:

- Allowances or payments to cover study expenses (including travel, room, board, and tuition)
- Wages from authorized work, including practical training
- Interest on bank deposits

All nonresident aliens with a visa status other than those noted above including permanent residents (green card holders), must obtain a Certificate of Compliance from the IRS before leaving the U.S.

- IRS Form 2063 – required if the foreign national owes no U.S. tax at the time of departure
<https://www.irs.gov/pub/irs-pdf/f2063.pdf>
- IRS Form 1040-C– required if the foreign national owes U.S. tax at the time of departure
<https://www.irs.gov/pub/irs-pdf/f1040c.pdf>
<https://www.irs.gov/pub/irs-pdf/i1040c.pdf> (Instructions)
- Form should be filed at least 14, but no more than 30 days before departure
- More information is available in IRS Publication 519, U.S. Tax Guide for Aliens
<https://www.irs.gov/pub/irs-pdf/p519.pdf>

Penalties and Sanctions

Failure to file the appropriate tax returns, making intentionally false or misleading statements on tax returns or otherwise failing to comply with U.S. tax law can lead to the imposition of fines and penalties including potential criminal penalties. The regulations provide that a nonresident alien's tax return deductions will be allowed "only if a true and accurate return for the taxable year is filed by the nonresident alien on a timely basis." This means that unless a timely and accurate tax return is filed, tax is assessed against the nonresident alien's gross income without regard for any deductions or credits that might otherwise be allowable. Tax compliance will be evaluated at the time the foreigner seeks to leave the country.