

## PAYING AN HONORARIUM TO A FOREIGN NATIONAL

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/colleges/units 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 your institution
- 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 Institute of Geological Analysis 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 university 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 (6<sup>th</sup>) U.S. university for another six months.

### **Who Is 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 University or from another university for an occasional lecture, 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 University. (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 University.) The payment must be processed according to University policy (e.g. 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.

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 Program). 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>

### **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 or unit 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
- Whether travel and/or incidental expenses will be reimbursed
- Contact information at the sponsoring department/unit 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, 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 your university to give a talk by the Department of Mathematics. He is traveling in the U.S. on a B-1 visa. Dr. Yang cannot be paid an honorarium for the talk at your university, but can be reimbursed for reasonable travel and/or incidental expenses. Request for travel reimbursement with documentation should be sent to the appropriate University office (e.g. Travel).

### **Honorarium Payment to J-1 Scholars**

J-1 scholars sponsored by the University may receive compensation for occasional lectures or short-term consultations 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

Primary source: University of Washington, Office of Global Affairs; URL:  
<http://finance.uw.edu/globalsupport/home>

### **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 or unit.
2. Ask the home department or unit to authorize in writing permission to participate in the activity.
3. Ask the home department or unit to forward the authorization to the University's office for international students and scholars for their review and authorization.

The relevant office for international students and scholars 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 new activity should be documented 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 a revised Form DS-2019.

### **J-1 Scholars-Sponsored by another University**

A J-1 scholar at another university may be invited to your university 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 office that supports international students and scholars in advance of the activity. Most universities will require that the written authorization from the sponsor institution be included with the paperwork that is sent to an office such as Accounts Payable as part of the request for an honorarium 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/unit needs to do advance planning; tax treaty benefits may impact the tax rate for the honorarium; and, several different types of forms may be required for the payment.

**The toolkit contains a separate "tip list" for inviting and paying an honorarium to a foreign national for academic activities.**

Information that may be required for approval of an honorarium:

- A request form for the honorarium. If applicable: mark "Non-Resident Alien."
- A readable copy of visa and/or copy of passport page with port of entry stamp.
- A copy of identity page from passport
- A copy of the individual's DS 2019 for J-1 scholars
- An IRS Form 8233 or appropriate W-8 form, if a tax treaty benefit is available.

Primary source: University of Washington, Office of Global Affairs; URL:

<http://finance.uw.edu/globalsupport/home>

Information that may be required to request travel expense reimbursement:

- An expense report signed by foreign national
- A readable copy of visa and/or or copy of passport page with port of entry stamp.
- A copy of identify page from passport.
- A copy of the DS 2019 for J-1 scholars
- A copy of the I-20 for F-1 students

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

**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 his passport and complete the appropriate paperwork for travel reimbursement. Request for travel reimbursement would be sent to the appropriate University unit (e.g. Travel Office).

**VISA WAIVER BUSINESS (VWB) FOREIGN NATIONAL** Dr. Schwartz, a resident of Germany, is invited to the University to give a lecture in molecular biology and visit for two days. The Biology Department offers to reimburse him for all expenses and pay an honorarium of \$2,000. Dr. Schwartz is from a country in the U.S. 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 the Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual Form.

**J-1SCHOLAR ALREADY IN THE U.S.** Dr. Marconi, a resident of Italy, has been in the U.S. as a J-1 scholar conducting research at M.I.T. The Dean of Engineering at your institution decides to invite Dr. Marconi to campus to conduct a seminar. The dean will offer both an honorarium and reimbursement of expenses. According to DHS regulations, Dr. Marconi must have a letter of work authorization from M.I.T. (his J-1 visa sponsor) in order to receive payment from your organization. A copy of the work authorization from the M.I.T. International Students & Scholars Office and Dr. Marconi's DS 2019 must accompany the paperwork sent to your institution.