

250 Vendor Payments – International

IRS Regulations require that the University collect identifying information on all entities prior to making payment. These required tax forms are used to determine whether a person or entity qualifies as a foreign person. Required forms:

- W-9 for U.S. person, Resident Aliens
- W-8 for Foreign Person, Non Resident Aliens
- Form 8233 for Certain Foreign Persons

Definitions:

- Foreign Person - A foreign person includes a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, a foreign estate, and any other person that is not a U.S. person. A foreign payee is subject to withholding unless an exemption or treaty applies.
 - Nonresident Alien – A nonresident alien is an individual who is not a U.S. citizen or resident alien. A resident of a foreign country under the residence article of an income tax treaty is a nonresident alien individual for purposes of withholding.
- Resident Alien – A resident alien is an individual that is not a citizen or national of the United States and who meets either the “green card test” or the substantial presence test for the calendar year and does not have special treaty status. Vendor payments to resident aliens are not subject to withholding and are reported on Form 1099.

Before transacting with any foreign person, the University must answer the following four questions:

- Is business with this foreign person allowable?
- What activities are authorized based on the foreign person’s status?
- Is payment to the foreign person subject to withholding?
- Is the foreign person eligible to claim an exemption that would reduce or eliminate withholding?

Is business with this foreign person allowable?

The US Treasury Department, Office of Foreign Assets Control (OFAC) administers the regulations which determine whether activities are restricted with certain countries, industries, entities or individuals. Sanctions lists are available on the OFAC website at <https://www.treasury.gov/about/organizational-structure/offices/pages/office-of-foreign-assets-control.aspx>. Some sanctions restrict the type of activity allowed in a country. In other instances, individuals and entities are blocked from any transactions in the US (Specially Designated Nationals).

What activities are authorized based on the foreign person’s status?

There are many different types and classifications of visas through which an individual can enter the US (see section 160.1). The visa type determines whether an individual is authorized to work while in the country and the types of payments the individual can receive. For example, a foreign person who enters the US on a B-2 Visitor for Tourism visa is not authorized to work and cannot receive income, except that an honorarium or cost reimbursement may be allowed. See section 160.3 for further details.

Is payment to the foreign person subject to withholding?

Most payments to a foreign person are subject to withholding but exceptions do apply. Payments subject to withholding include the following.

- Payments for services, if the services were performed in the US
- Royalty and license payments, if the permissions granted by exercising the license occur in the US
- Prizes or awards, if the payer is located in the US
- Non-qualified scholarship, fellowship, or stipend, if the payer is located in the US
- Rent, if the property is located in the US

The following types of payments are excepted from withholding requirements.

- Qualified scholarships, i.e. directly tied to instruction and achieving a degree (tuition, books and course materials, lab fees)
- Expense Reimbursements
- Payments for Goods Manufactured outside the U.S.

Withholding is required at the time payment is made. Withholding rates are based on the type of payment but are typically 30%.

Is the foreign person eligible to claim an exemption that would reduce or eliminate withholding?

A foreign person can claim exemption from withholding by claiming an existing tax treaty with the US or by providing an appropriate US (W-9) or Foreign (W-8) Tax ID. Tax treaties are claimed using Form W-8-BEN, W-8-BENE, W-8-IMY or Form 8233. (See Section 160.2)

The Business Services office is responsible for compliance with foreign vendor documentation requirements and should be consulted with any questions regarding these requirements.

All foreign entity withholding calculations are prepared by the Payroll Office based on Form W-8 or Form 8233 information.