FIN-012

Scholarship/Fellowship Payments to Foreign Nationals

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Status Final

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Policy Type University

Contact Office Financial Operations & Tax

Oversight Executive
Vice President and Chief Financial Officer

Applies To Academic Division and the College at Wise.

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Reason for Policy

The University complies with U.S. Immigration and Tax laws and provides guidance for applying taxes to scholarship/fellowship payments made to foreign national students and fellows.

(Note: Financial Operations & Tax is prohibited from providing tax or legal advice. Students are encouraged to consult their own tax advisor.)

Definition of Terms

Foreign National

Description An individual not a U.S. citizen or U.S. national (8 USC 1401 et seq).

U.S. Citizen

Description

(1) An individual born in the U.S.; (2) an individual whose parent is a U.S. Citizen; (3) a former alien who has been naturalized as a U.S. citizen; (4) an individual born in Puerto Rico; (5) an individual born in Guam; or (6) an individual born in the U.S. Virgin Islands. (USC 1401 et seq.)

U.S. National

Description

An individual who owes his sole allegiance to the U.S. including all U.S. citizens and including non-U.S. citizens of certain U.S. possessions including American Samoa and the Northern Mariana Islands. (8 USC 1401 et seq.)

Nonresident Alien

Description

A foreign national temporarily present in the United States who is not a resident alien. Nonresident aliens are taxed according to special rules contained in certain parts of the Internal Revenue Code. A “nonresident alien” will become a “resident alien” in one of two ways: (1) by being admitted to the U.S. as, or changing status to, a Lawful Permanent Resident under the Immigration Laws (the Green Card test); or (2) by passing the Substantial Presence Test (a numerical formula which measures days of presence in the U.S.). (26 USC 7701(b).)

Resident Alien

Description

A foreign national temporarily or permanently present in the U.S. Resident aliens are taxed in the same manner as U.S. citizens on their worldwide income. (26 USC 7701(b).)

Scholarship

Description

For tax purposes, an amount given to aid in the pursuit of study or training for which there is no obligation to perform services by the recipient as a condition of receiving the funds. *"Scholarships," "Fellowships," or "Stipends"* have interchangeable meaning in this policy. Any payments paid to or on behalf of foreign nationals requiring the performance of services past, present, or future, in exchange for the payments, are taxable wages subject to withholding regulations.

Qualified Scholarship

Description

Any amount received by an individual who is a candidate for a degree at an educational organization used to pay for tuition and any fees, books, supplies, or equipment required for courses of instruction at such educational organization. (IRC 117.) Payments deemed "qualified scholarships" are not includable in the gross income of the recipient, are not subject to withholding, and are not reportable by the educational institution.

Policy Statement

The University (those departments that process payments to foreign national students and fellows) will adhere to U.S. tax laws as they relate to scholarship and fellowship payments made to foreign nationals.

1. **Nonresident Alien Recipients:**
   All amounts paid to nonresident aliens in the form of scholarships, fellowships, grants, and financial aid not excludable from gross income as a "qualified scholarship" under I.R.C. 117 (i.e., tuition payments), must be reported to the IRS on Forms 1042-S and 1042. Generally, the taxable portion of a scholarship paid to a nonresident alien is subject to federal income tax withholding at the rate of 30% unless the payments are exempt under a tax treaty. However, payees who are temporarily present in the U.S. in F-1, J-1, M-1, Q-1, or Q-2 nonimmigrant status are subject to a reduced 14% withholding rate on the taxable portion of the grant.
2. **Resident Alien Recipients:**
   Since resident aliens are treated exactly like U.S. citizens for tax purposes, the University is not required to report or withhold taxes on scholarship/fellowship payments to resident aliens. The resident alien payee is responsible for reporting and paying taxes on these payments. Compliance and Immigration Services has the exclusive authority to determine whether a foreign national is a resident or nonresident alien for tax purposes.
3. **Tax Exemptions under U.S. Tax Treaty:**
   Scholarship payments to foreign nationals (both nonresident and resident aliens) from countries having a tax treaty in force with the U.S. may be exempt from tax liability. A list of these treaties may be found in Table 3 of IRS Publication 901 (United States Tax Treaties). The full text of tax treaties is available on the IRS website (www.irs.gov/). In general, the student articles of tax treaties provide for the exemption of a certain dollar amount of U.S. source student wages every calendar year. The student article may also exempt scholarship payments from U.S. tax.

4. **Compliance with Policy:**
   Failure to comply with the requirements of this policy may result in disciplinary action up to and including termination in accordance with relevant University policies.

   Failure to comply with U.S. tax withholding and reporting requirements could result in significant penalties for the University.

   Direct questions about this policy to Financial Operations & Tax.

Procedures

To claim the tax exemption benefits of a tax treaty, nonresident or resident alien foreign nationals must contact Financial Operations & Tax, provide necessary documentation, and fill out Form 8233 (Exemption From Withholding on Compensation for Independent and Certain Dependent Personal Services of a Nonresident Alien Individual) or Form W8-BEN.

Related Information

FIN-014: Academic Honorarium Payments to Non-Employees Including Short-term, Non-Immigrant Alien Visitors
UVA Finance, International Taxation

Major Category Finance and Business Operations

Next Scheduled Review Sunday, April 22, 2029

Revision History

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Supercedes Policy Text

IV.G.2 Taxation Instructions for Foreign National Recipients of Scholarships/Fellowships.

Approved By Policy Review Committee

Approved Date Wednesday, March 2, 2005