

Oklahoma State University Policy and Procedures

MISCELLANEOUS COMPENSATION PAYMENTS TO INTERNATIONALS FOR INDEPENDENT PERSONAL SERVICES

3-0202
BUSINESS &
EXTERNAL
RELATIONS
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INTRODUCTION

1.01 Miscellaneous compensation payments to nonresident aliens are payments for honoraria and/or reimbursement of travel expenses.

1.02 Miscellaneous compensation does not include payments to nonresident alien employees or students. (See OSU Policy and Procedures Letter 1-0803, Employment of Internationals)

POLICY

2.01 It is the intent of Oklahoma State University to comply with federal immigration laws governing payments for independent personal services to nonresident aliens in the United States. It is also the intent of Oklahoma State University to comply with Internal Revenue Service (IRS) withholding and reporting requirements for such payments. The position responsible for this is the International Tax Coordinator within the office of International Students and Scholars (ISS).

3.01 It is the specific responsibility of each department within every college of Oklahoma State University to determine the payment eligibility of the individual before contracting with a nonresident alien for payment of services or reimbursement of travel expenses.

3.02 Departments considering contracting with a nonresident alien should first contact the International Tax Coordinator in the ISS Office for guidance on obtaining the correct visa/immigration documentation. The correct documentation is needed prior to the individual's arrival in the United States and is necessary in order to make payment to the individual.

3.03 Before the individual arrives in the United States, departments should determine if he or she has a social security number or is eligible to obtain one. If he or she is not eligible for a social security number, then an Individual Taxpayer Identification Number (ITIN) should be obtained. The International Tax Coordinator in the International Students and Scholars office can assist the individual in obtaining the appropriate number upon arrival.

3.04 Upon arrival the individual should come to the ISS Office to complete and sign the "International Tax Questionnaire" and the "OSU Work Permit" form. ISS will copy the individual's immigration documents. The International Tax Coordinator will review the forms and return all documents to the department with a notation on the tax due and the net amount due to the individual.

3.05 If the individual is from a treaty country and is eligible for an exemption from withholding, IRS Form 8233, *Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual* must be completed and attached to

the “International Tax Questionnaire.” Form 8233 must be signed by the nonresident alien. The exemption from withholding is effective upon approval by the International Tax Coordinator. The ISS Office will submit Form 8233 to the IRS and notify the department of treaty eligibility.

3.06 After all immigration and IRS requirements are met and the service has been performed, the department should complete two requisitions. One requisition is payable to the individual for the net amount of the honorarium. Attached to this requisition should be a Notarized Claim Form and a “Determination of Independent Contractor Status” form. The second requisition is payable to the State Contribution Fund for the tax due. University Accounting will audit and process the payments. The individual must have a social security number or ITIN number before the payment can be made.

3.07 Payments for reimbursement of travel expenses are not subject to withholding or reporting to the IRS if the payment falls under an “accountable plan.” Therefore, all travel reimbursements for nonresident aliens must be made on a Travel Requisition with appropriate documentation attached. A social security number or ITIN number is not needed for Travel Requisitions. Not all payments for reimbursement of travel expenses will fall under the accountable plan. It is important to contact the International Tax Coordinator to determine if the nonresident alien falls under the accountable plan. Some payments for reimbursement of travel expenses for nonresident aliens are classified as scholarship/fellowship payments.

3.08 If the individual is not eligible for a treaty exemption, honoraria payments are subject to income tax withholding at the rates of 30% for federal and 7% for state.

3.09 All honoraria payments must be reported to the IRS on Form 1042-S even if the income is exempt from withholding. The International Tax Coordinator will file the Forms 1042-S with the IRS.

3.10 Any penalty, assessed under Internal Revenue Code for under withholding, failure to obtain an ITIN or failure to file Form 8233 or Form 1042-S, will be borne by the department initiating the payment.

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