

DISBURSEMENTS: STATE TAX WITHHOLDING FROM  
NONWAGE PAYMENTS TO NONRESIDENTS OF CALIFORNIA

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DISBURSEMENTS: STATE TAX WITHHOLDING FROM  
NONWAGE PAYMENTS TO NONRESIDENTS OF CALIFORNIA

I. INTRODUCTION

This chapter sets forth the requirements and procedures applicable to withholding California State income tax from nonwage payments made by the University to nonresidents of California (nonresident). The tax treatment of nonwage payments made to U.S. residents of California is covered in Accounting Manual chapter [D-371-12.1](#), Disbursements: Accounting For and Tax Reporting of Payments Made Through the Vendor System.

In general, California does not distinguish between U.S. citizens, residents, and nonresident aliens with respect to State income tax withholding. Therefore, the term nonresident also includes residents of a foreign country (see Section IV.B for more information). Moreover, California does not generally conform to Federal tax treaties; thus, residents of foreign countries who perform services in California or who receive income from California sources are usually subject to State income tax withholding.

The following types of payments are covered in this chapter:

Entertainment:

Payments to performing entities;

General:

Compensation for services rendered in California, such as fees for professional services (e.g., honorariums, consulting fees, fees for architectural services, fees for conducting seminars, etc.);

Prizes and awards, premiums, rewards, and winnings from contests within California; and

\*\* Royalties paid for the right to use natural resources located in California, and royalty or residual payments made for services originally performed in California; and

Scholarship and fellowship grants.<sup>1</sup>

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<sup>1</sup> Amounts that represent payment for teaching, research, or other services are subject to tax withholding and are paid through the payroll system.

Corporate:

Payments made to corporations, partnerships, or limited liability companies (LLC) that are not residents of California, i.e., do not have a permanent place of business in the State.

For accounting and payroll procedures related to State income tax withholding from employees, refer to Accounting Manual chapter [P-196-77](#), Payroll: State Tax Withholding from Employees.

II. DETERMINATION OF NONRESIDENT STATUS

A. INDIVIDUALS

In general, under the California Personal Income Tax regulations, an individual who spends more than nine months of the tax year in California is presumed to be a resident of the State. Refer to FTB Publication [1031](#), Guidelines for Determining Resident Status, for additional information on making a determination of residency status.

B. CORPORATIONS, PARTNERSHIPS, LLC'S

A corporation, partnership, or LLC is considered to have a permanent place of business in the State if it is organized and existing under the laws of the State or if it is a foreign corporation qualified by the California Secretary of State's Office to transact intrastate business.

III. TAX WITHHOLDING PROCEDURES--PERFORMING ENTITIES

Payments in excess of \$1,500 made to a nonresident performing entity for services rendered in California are subject to State income tax withholding at a rate of 7% of gross income. A waiver or reduced rate may be granted by the FTB if it is determined that the 7% withholding rate results in significant overwithholding, e.g., if deductible expenses are likely to be large.

To obtain a reduced rate or a waiver, a letter requesting the change, along with an income statement and the entertainer's identification number, must be sent by the entertainer or the withholding agent, i.e., the payer, to the FTB at the following address:

III. TAX WITHHOLDING PROCEDURES--PERFORMING ENTITIES (Cont.)

Withhold at Source Unit  
Attn: Entertainment Withholding  
P.O. Box 651  
Sacramento, CA 95812-0651

or the request may be faxed to the FTB at the following number: (916) 845-4831.

Such requests should be made as early as possible before a payment is due to be made. The FTB will reply in writing (within three working days if a faxed reply is requested).

The FTB's approval or denial of such requests is provided on a Form 595, Notice to Withholding Agent.

IV. TAX WITHHOLDING PROCEDURES--ALL OTHER PAYEES

The following types of payments are covered in this section: general; corporate, partnership, or LLC; and scholarship and fellowship grants.

A. GENERAL

State income tax withholding is required if the total payments made to a nonresident for services (or prizes and awards) rendered in California equal more than \$1,500 during the calendar year. The withholding rate is 7% of gross income. If it is expected that the total payments will exceed \$1,500 during the calendar year, withholding should begin with the first payment. However, if the withholding agent **reasonably** believes that payments will not exceed that amount during the year, withholding is not required on any prior payments.

The withholding agent or the payee may request a waiver or a reduced withholding rate by completing a [Form 588](#), Nonresident Withholding Waiver Request (refer to Section VI for address and fax number).

B. CORPORATIONS, PARTNERSHIPS, OR LLC'S

Corporations, partnerships, or LLC's that do not have a permanent place of business in California are subject

to State tax withholding from payments made for the performance of services within the State in accordance with the withholding requirements detailed in Section A above. However, *there is no provision in the law to allow waivers or reduced withholding on payments to foreign nonresident partners or members.* The State income tax withholding rate on *foreign nonresident partners that are not corporations or banks* is 9.3 percent of gross income.

[Form 590](#), Nonresident Withholding Exemption Certificate, is used by the above types of entities eligible to obtain an exemption from withholding. The withholding agent will be relieved of the nonresident withholding requirements if it relied in good faith on a completed and signed Form 590.

C. SCHOLARSHIP AND FELLOWSHIP GRANTS <sup>2</sup>

The regulations regarding the amount of a scholarship or fellowship grant that is excludible from or includible in gross income are as follows<sup>3</sup>:

1) Degree Candidates

Amounts spent for tuition, fees, and course-related expenses (books, supplies, and equipment required for courses of instruction) are excludible from the recipient's gross income. All other amounts, such as amounts used to pay for room and board, transportation, and other general living expenses, are includible in the gross income of the recipient.

2) Non-Degree Candidates

No exclusion is allowed for scholarship and fellowship payments made to non-degree candidates (e.g., postdoctoral fellows); therefore, the total amount awarded is includible in the gross income of the recipient.

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<sup>2</sup> The provisions in this section apply to grants received after January 1, 1987.

\* <sup>3</sup> See Accounting Manual chapter [T-182-77](#), Taxes: Taxation of Scholarship and Fellowship Grants and Educational Assistance, for more information.

IV. TAX WITHHOLDING PROCEDURES--ALL OTHER PAYEES (Cont.)  
C. SCHOLARSHIP AND FELLOWSHIP GRANTS (Cont.)

\*\* The State of California only requires reporting and withholding on the portion of a scholarship or fellowship grant payment that represents payment for services performed in California. Payments of non-excludable portions (room, board, etc.) are taxable to nonresidents and should be reported but are not subject to withholding.

V. TAX REMITTANCE

A. MONTHLY RETURNS

A Form 592-A, Nonresident Withholding Remittance Statement, must be filed and any withheld tax remitted to the FTB within 20 days following the month the total tax withheld from all sources exceeds \$2,500 (or, for performing entities, the 20th day of the month following the month the performance closed)<sup>4</sup>. This procedure continues each time the total of the amounts withheld exceeds \$2,500.

The remittance must be sent to:

Franchise Tax Board  
P.O. Box 942867  
Sacramento, CA 94267-0001

B. ANNUAL RETURN

To report the total amount of income subject to withholding and the amount of tax withheld during a calendar year, a separate Form 592-B, Nonresident Withholding Tax Statement, must be filed for each nonresident.<sup>5</sup>

Form 592, Nonresident Withholding Annual Return, which is the transmittal form for Form 592-B, must be filed on or before January 31st following the close of the calendar year.<sup>6</sup> The total of any amounts withheld that

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<sup>4</sup> For performing entities, Form 594, Notice to Withhold Tax at Source, is used for tax remittance. However, if this form is not available, Form 592-A may be used.

<sup>5</sup> Amounts in excess of \$600 from which no State tax was withheld are reported to the State on Internal Revenue Service Form 1099.

<sup>6</sup> For *foreign* partners or members, Form 592 is filed by the 15th day of the 4th month after the partnership's or LLC's tax year end.

were not previously remitted (i.e., amounts withheld during the year but not previously required to be sent or amounts that are less than \$2,500 at the end of the year), and a Copy A of Form 592-B for each payee, must be included with the Form 592. Copy B and Copy C must be sent to the payee by the filing due date for the Form 592.

Effective 1/1/01, the Franchise Tax Board requires that all 592-B information be submitted via magnetic media (e.g., disks or tapes) from withholding agents with 250 or more payees. For instructions on submitting withholding information to the FTB via magnetic media, refer to Publication 1023F, Nonresident Withholding--Magnetic Media Guidelines, or call (916) 845-3778.

#### VI. FTB INFORMATION

Additional information concerning tax withholding from nonresident and non-employees may be obtained from the Withhold at Source Unit, Franchise Tax Board, P.O. Box 651, Sacramento, CA 95812-0661 (Telephone: (916) 845-4900; FAX: (916) 845-4831)).

Copies of the FTB forms and some publications referred to in this chapter are available from the FTB Website at the following address: <http://www.ftb.ca.gov>

#### VII. RESPONSIBILITIES

##### A. ACCOUNTING OFFICE

It is the responsibility of the campus accounting office to determine the tax status of payments to nonresidents of California, to withhold tax at the appropriate rate, and to use the appropriate tax code for each transaction.

The accounting office is responsible for preparing the Forms 592, 592-A, and 592-B and for remitting the tax withheld to the FTB, as specified in section V of this chapter.

##### B. DEPARTMENTS OR HIRING/CONTRACTING UNITS

Departments or hiring/contracting units are responsible for obtaining the information necessary to determine whether a payee is a nonresident of California.

VIII. REFERENCES

California Revenue and Taxation Code:

Section 17041(d), Imposition of Tax

Section 18662, Withholding of Tax From Payments;  
Transmission to FTB

Franchise Tax Board, Letter to the University of  
California, Office of the President, on  
Withholding of Tax at Source Requirements, January  
5, 2000.

Franchise Tax Board [Publication 1023](#), Nonresident  
Withholding--Independent Contractor, Rent &  
Royalty Guidelines.

Franchise Tax Board [Publication 1023F](#), Nonresident  
Withholding--Magnetic Media Guidelines.

Franchise Tax Board [Publication 1024](#), Nonresident  
Withholding--Entertainment Guidelines.

Franchise Tax Board [Publication 1031](#), Guidelines for  
Determining Resident Status.

Accounting Manual chapters:

<a href="#">D-371-35</a>	Disbursements: Honorarium Payments
<a href="#">D-371-12.1</a>	Disbursements: Accounting For and Tax Reporting of Payments Made Through the Vendor System
<a href="#">P-196-77</a>	Payroll: State Tax Withholding from Employees
<a href="#">T-182-27</a>	Taxes: Federal Taxation of Aliens
<a href="#">T-182-77</a>	Taxes: Taxation of Scholarship and Fellowship Grants and Educational Assistance

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and 12/31/04; analyst--J. Barrett