

## TAXES: FEDERAL TAXATION OF ALIENS

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## TAXES: FEDERAL TAXATION OF ALIENS

"Taxes are what we pay  
for civilized society."

--Oliver Wendell Holmes, Jr.

I. INTRODUCTION

This chapter addresses the eligibility of certain classes of aliens to receive employment, independent contractor, or scholarship and fellowship payments from the University, and the Federal withholding and reporting requirements applicable to those payments. Whether or not an alien may receive salary, honoraria, or other compensation for services, as well as reimbursement for travel and subsistence expenses, is governed by the Immigration and Nationality Act<sup>1</sup> (INA) and regulations promulgated by the Immigration and Naturalization Service (INS). The tax status of payments made to aliens is governed by the Internal Revenue Code (IRC) and regulations promulgated by the Internal Revenue Service (IRS).

***It is essential to determine the immigration status of any alien receiving payment from the University to ensure that the rules and regulations of both the INS and the IRS are met.*** The hiring of nonresident alien employees or independent contractors normally should be coordinated with the campus international students and scholars office. That office can provide assistance regarding the terms and conditions of visas, an individual's immigration status, etc., to ensure compliance with campus procedures governing payments to foreign students and scholars. (Refer to Appendix A for a list of immigration status categories.)

II. DEFINITION OF RESIDENT ALIEN AND NONRESIDENT ALIEN

For Federal income tax purposes, non-U.S. citizens are classified by the IRS as either resident or nonresident aliens. Since the tax withholding requirements are different for resident and nonresident aliens, it is ***essential*** to establish the residency status of any non-U.S. citizen who will be receiving payments from the University. There are two tests used to determine whether a non-U.S.

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<sup>1</sup> Revisions to the INA:

1986 - Immigration Reform and Control Act

1990 - Immigration Act

1991 - Miscellaneous and Technical immigration and Naturalization Amendments

citizen should be classified for tax purposes as an U.S. resident or as a nonresident alien: the "green card" test and the substantial presence test. An alien who does not qualify under either test is defined for income tax purposes as a nonresident alien.

A. GREEN CARD TEST

An alien is considered to be a U.S. resident for income tax purposes if the individual is a lawful permanent resident of the United States, i.e., a lawful U.S. immigrant--with a Permanent Resident Card ("green card")--at any time during the calendar year.

B. SUBSTANTIAL PRESENCE TEST<sup>2</sup>

General Rules

An alien will be considered a U.S. resident for tax purposes if he or she meets the substantial presence test under the conditions listed below. The test must be applied each year on a prospective basis, always taking into account the current year and the two preceding years.

An alien will meet the substantial presence test with respect to any current calendar year if:

- 1) He or she was present in the United States for at least 31 days during the current calendar year; and
- 2) The sum of the number of days he or she was present in the United States during the current year and the two preceding calendar years equals or exceeds 183 days as computed using the following formula:

A.	Current year days in U.S.	x	1	=	___	days
B.	1st preceding year days in U.S.	x	1/3	=	___	days
C.	2nd preceding year days in U.S.	x	1/6	=	___	days
D.	Total Days in U.S.			=	___	days

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<sup>2</sup> Refer to section II.E for exceptions to the Substantial Presence Test.

II. DEFINITION OF RESIDENT ALIEN AND NONRESIDENT ALIENB. SUBSTANTIAL PRESENCE TEST (Cont'd.)

If line D equals or exceeds 183 days, the individual has passed the substantial presence test for the current calendar year. The test must be applied again in the following year.

Examples of the Substantial Presence TestExample (a)

An alien who is present in the United States during the current calendar year for 183 days--almost exactly six months--**is** considered to be a U.S. resident for income tax purposes (refer to Section C. 1, below, for residency starting date).

Example (b)

An alien who satisfied the substantial presence test for 1995 and was therefore considered a U.S. resident for income tax purposes for the 1995 tax year, subsequently leaves the country on January 30, 1996. The alien is in the United States for fewer than 31 days in 1996, and therefore, for income tax purposes, **is not** considered to be a U.S. resident in 1996, even though the 183 day test is met.

Example (c)

An alien who is present in the United States for 183 or more formula days is considered to be a U.S. resident for income tax purposes (refer to Section C.1, below, for residency starting date):

	<u>Year</u>	<u>Actual Days</u>	<u>Multiplier</u>	<u>Formula Days</u>
*	1998	138	1/6	23
*	1999	129	1/3	43
*	2000	120	1	<u>120</u>
			Total	186

Example (d)

An alien who is present in the United States for the length of time shown below is not considered to be a U.S. resident for income tax purposes (even though the alien is present for more than 31 days in the current year, because he or she is not present for 183 formula days):

	<u>Year</u>	<u>Actual Days</u>	<u>Multiplier</u>	<u>Formula Days</u>
*	1998	54	1/6	9
*	1999	150	1/3	50
*	2000	110	1	<u>110</u>
			Total	169

## C. SPECIAL RULES FOR FIRST YEAR OF RESIDENCY

1. Residency Starting Date for Individuals Who Meet the Substantial Presence Test

In the case of an alien who meets the substantial presence test in any calendar year, the residency starting date will be the first day during such calendar year on which he or she is physically present in the United States.

2. Residency Starting Date for Individuals Lawfully Admitted for Permanent Residence

In the case of an alien who is a lawful permanent resident of the United States at any time during the calendar year, but who does not meet the substantial presence test, the residency starting date will be the first day in such calendar year on which he or she was physically present in the United States while a lawful permanent resident of the United States.

## D. SPECIAL RULES FOR LAST YEAR OF RESIDENCY

An alien is not treated as a resident of the United States during a portion of any calendar year if:

- 1) Such portion is after the last day in the calendar year on which the individual was physically present in the United States (or, in the case of a lawful permanent resident, the last day on which he or she was so described);
- 2) During such portion the individual has a closer connection to a foreign country than to the United States; and
- 3) The individual is not a resident of the United States at any time during the next calendar year.

II. DEFINITION OF RESIDENT ALIEN AND NONRESIDENT ALIEN (Cont'd.)

## E. INDIVIDUALS EXEMPT FROM THE SUBSTANTIAL PRESENCE TEST

Some individuals who are actually present in the United States, are generally not treated as being present for tax purposes, with certain limitations. A specified period of time must elapse before the substantial presence test is applied to these exempt individuals,<sup>3</sup> and during this initial period they are considered nonresident aliens. An exempt individual is one who is a foreign government-related individual or a teacher, trainee, or student, as defined below:

1. Foreign Government-Related Individual

The term "foreign government-related individual" means an individual who is temporarily present in the United States who (a) has diplomatic status, or a visa that represents full-time diplomatic or consular status; (b) is a full-time employee of an international organization; or (c) is a member of the immediate family of one of the aforementioned individuals. A foreign government-related individual is considered a nonresident alien for income tax purposes for the duration of his or her sojourn in the United States.

2. Teacher or Trainee

The term "teacher or trainee" means an individual who is temporarily present in the United States with J-1 visa status (other than as a student), and who substantially complies with the requirements for being present in the United States. Researchers are included in this category.

**Limitation.** A teacher, trainee, or researcher is no longer exempt from the substantial presence test for the current year if, for any two calendar years during the preceding six calendar years, he or she was considered exempt as a teacher, trainee, researcher, or student. Note that in making this determination, any years that the individual was present in the United States under an F visa are also taken into account.

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<sup>3</sup> The term exempt individual refers to an individual who is exempt from the substantial presence test, not to an individual who is exempt from paying Federal tax, OASDI and Medicare tax or from filing a United States income tax return.



### 3. Student

The term "student" means an individual who is temporarily present in the United States, with F-1 or J-1 student visa status, and who substantially complies with the requirements for being present in the United States.

**Limitation.** A student is no longer exempt from the substantial presence test for any calendar year after the fifth calendar year for which he or she was considered exempt as a teacher, trainee, researcher, or student, unless such individual establishes with the IRS that he or she does not intend to reside permanently in the United States and substantially complies with the requirements for being present in the United States.

For the purposes of the teacher/trainee and the student exemptions described above, a "calendar year" includes a full 12-month year or any part of a year. If the individual is present in the United States for any part of a year, that year will count as a full calendar year for the purposes of making the "two out of six year" determination for teachers and trainees and the five-year determination for students. For example, if a F visa holder student arrived in the United States on December 15, 1994, the first calendar year is 1994, even though the individual was in the United States for only 16 days. The five calendar years that the person is treated as exempt are 1994-1998.

#### a. Commuters from Canada or Mexico

An individual who regularly commutes to employment in the United States from a place of residence in Canada or Mexico will not be treated as being present in the United States on any day during which he or she so commutes.

#### b. Medical Condition

If an individual is unable to leave the United States on any day because of a medical condition which arose while he or she was in the United States, that individual will not be treated as being present in the United States for that day.

II. DEFINITION OF RESIDENT ALIEN AND NONRESIDENT ALIENE. INDIVIDUALS EXEMPT FROM SUBSTANTIAL PRESENCE TEST3. Student (Cont'd.)c. In Transit Between Two Foreign Points

If an individual who is in transit between two points outside the United States is physically present in the United States for fewer than 24 hours, that individual will not be treated as being present in the United States on any day during such transit.

III. PAYMENTS TO ALIENSA. GENERAL PROVISIONS--EMPLOYMENT

Immigrants are aliens who have been admitted to the United States for permanent residence and may be employed without restriction. Immigrants are issued alien registration cards (commonly know as the "green card") by the INS. (Refer to Appendix B for a list of past and present alien registration cards.)

Nonresident aliens are individuals admitted to the United States for a limited period of time. Certain classes of nonresident aliens are authorized for employment as a condition of their admission to the United States, and, as long as the employment is consistent with the terms of their admission, a specific employment authorization by the INS need not be requested.

Other classes of nonresident aliens may be employed only if a specific authorization is obtained from the INS. Some classes of nonresident aliens are prohibited from any type of employment while in the United States. Under the INA, it is unlawful to employ illegal and/or out-of-status aliens. (Refer to Appendix A for a list of Immigration terms.) Executive Order 12989, issued in February 1996, imposes additional sanctions against employers who are not in compliance with the employment-related provisions of the INA. An employer who is not in compliance with these INS provisions may be debarred from receiving Federal contracts.

The types of visas and the applicable employment provisions for the classes of nonresident aliens most likely to be encountered at the University are listed in Appendix C and are also discussed in Section III.C of this chapter.

B. GENERAL PROVISIONS--COMPENSATION PAID THROUGH THE VENDOR SYSTEM

Provisions regarding payments made through the vendor system to nonemployee aliens for personal services, such as honoraria, consulting fees, and performance fees, are subject to the applicable requirements specified in Section III.D and in Appendix C.

\*\* C. IMMIGRATION EXPENSES

Expenses incurred to process visa applications, visa renewals and to obtain temporary and permanent residence status on behalf of existing University employees, prospective University employees, and independent contractors, are excluded from the individual's gross income as follows:

- Legal expenses and immigration fees paid in connection with visa applications and visa renewals, as well as all travel and other expenses related to obtaining those visas are primarily related to the business of the University. Therefore, such expenses should be excluded from the individual's gross income. These visas (e.g., J, H, O, and TN visas) are obtained by the University on behalf of the foreign individual for the express purpose of permitting that individual to enter the U.S. to work at the University. In addition, reimbursement of the spouse's visa-related expenses are also excludable under the fringe benefit rules as another type of moving expense.
- Legal expenses, immigration fees, and related expenses paid in connection with obtaining status as a permanent resident (i.e., obtaining a green card) or obtaining temporary resident status may or may not relate to the business purposes of the University, depending on the facts and circumstances. If the expenses relate to the University's business purposes, they are excluded from the individual's gross income. Obtaining a green card for a foreign national employee's spouse (as well as any minor children) also services the business interest of the University because otherwise the spouse (as well as any minor children) must leave the U.S. The following are examples of immigration fees that should be excluded from an individual's gross income:

III. PAYMENTS TO ALIENS

## C. IMMIGRATION EXPENSES (Cont'd.)

1. An employee's work visa is going to expire and the visa cannot be renewed, and the only alternative to keeping the employee in the U.S. and working for the University is to obtain a green card for the individual;
2. A government contract in which the University is involved requires that foreign nationals working on the contract have a green card;
- \*\* 3. The foreign national is working on a University project involving technology to which the United States export control laws require that only permanent residents can have access; or
4. The position involves extensive travel to other countries, and the foreign national's home country (e.g., China, Iran, and Iraq) makes it difficult for the person to enter other countries; therefore, the foreign national needs a green card so he or she can obtain U.S. travel documents.

In these and other similar business-related situations, the fact that the University pays the legal fees and other expenses in order to obtain a green card for the person should not result in income to the individual because the expense is primarily a University expense, with the individual receiving only incidental benefits.

When there is no connection between the immigration-related expenses paid by the University and the foreign nationals employment functions, legal and other expenses paid by the University would constitute taxable income to the individual. The following are examples of immigration-related fees that represent taxable income and should not be excluded from an individual's gross income:

1. An employee asks the University to obtain a green card for him or her simply because they want to have a green card; or
2. A foreign national may not agree to come to work for the University unless the University agrees to obtain a green card for him or her while they are in the U.S.

In these and other similar situations, the obtaining of

the green card by the University is primarily for the benefit of the individual, not the University, and is more in nature of a bonus or a fringe benefit.

\*\* Any payment made to an employee or independent contractor as a reimbursement of a business-related immigration expense must be properly substantiated by the individual, in order for the payment to be excluded from his or her gross income. Such payments made to a third party on behalf of an employee or independent contractor would be excludable from the individual's gross income as a working condition fringe benefit, since the payment would have been deductible had the individual made the payment himself.

\*\* The University is required to include immigration-related fees paid to fellowship or scholarship recipients who are nonresident aliens in their gross income. Under section 117 of the code, which defines the types of fellowship and scholarship grants that are excludable from the recipient's gross income, only tuition, books and related fees can be excluded. All other aspects of the fellowship and scholarship grant are included in the person's gross income, including such items as stipends, room and board, etc. Therefore, immigration-related fees are considered as another component of the fellowship grant and must be included in the individual's gross income, regardless of whether withholding is required. Refer to Accounting Manual chapter [T-182-77](#), Taxes: Taxation of Scholarship and Fellowship Grants and Education Assistance, for additional information on payments paid to fellowship or scholarship recipients.

#### D. TERMS AND CONDITIONS OF NONRESIDENT VISAS

##### 1. Visitors for Business or Pleasure--B Visas and WB and WT Visa Waivers

The American Competitiveness and Workforce Improvement Act of 1998 contains a provision that allows certain visa holders who were formerly prohibited from receiving payments for services to be paid honoraria and associated incidental expenses. Holders of B-1, B-2, WB, and WT visas may be paid for *usual academic activity*<sup>4</sup>, if the payment is offered by an institution of higher education or a

### III. PAYMENTS TO ALIENS

<sup>4</sup> Under prior law, holders of B-1 and WB visas could be reimbursed *only* for incidental travel and subsistence expenses; B-2 and WT visa holders could not accept any payment whatsoever.

## D. TERMS AND CONDITIONS OF NONRESIDENT VISAS

1. Visitors for Business or Pleasure--B Visas and WB and WT Visa Waivers (Cont'd.)

governmental research organization, provided such activities do not exceed nine days at a single institution. In addition, such visa holders cannot have accepted honoraria and/or incidental expenses from more than five such institutions or organizations in the previous six-month period.

Since the academic honoraria provision carries certain payment stipulations, the "Certification of Academic Activity"<sup>5</sup> (Exhibit H) form will assist you in determining whether these visitors are eligible to receive payment.

The new law is effective for activities that occur on or after October 21, 1998. INS implementing regulations or guidelines have not yet been issued.

## a. Classifications

**B-1 Visa** holders are classified as visitors for business. This classification is often given to foreign scholars who make short visits to the University. This visa does not authorize employment, but allows the alien to engage in commercial transactions that do not involve employment.

**B-2 Visa** - A visitor who intends to combine business with pleasure may be issued a B-1/B-2 visa; however, the visitor's status will be designated as either B-1 or B-2 on the INS Form I-94, Arrival/Departure Record, at the time the visitor enters the United States.

The initial maximum admission period for B-1 and B-2 visa holders is one year.

\* **Waiver for Business (WB) and Waiver for Tourism (WT) Visas** - The Visa Waiver Program was established by the Immigration Reform and Control Act of 1986.

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<sup>5</sup> The Certification of Academic Activity form is available on the Payroll Coordination and Tax Service web site. The web site is located at <http://www.ucop.edu/ucophome/cao/paycoord/honorpay.html>

The Act allows citizens of certain countries, to enter the United States for business or pleasure without obtaining a nonresident visa. Individuals in the Visa Waiver Program are treated in accordance with the rules for B-1/B-2 visa holders. The maximum admission period for WB and WT visa holders is 90 days. Currently, there are 28 countries participating in this Program (see Appendix G for a list of participating countries).

b. Payments

Payments made to short-term foreign visitors (nonemployees) to reimburse **expenses** are made through the vendor system. Such payments are not subject to income tax reporting or withholding, provided the visitor accounts for the reimbursement in accordance with the University's travel policy (see Business and [Finance Bulletin G-28](#), Policy and Regulations Governing Travel, for more information).

Note that because **honorariums** are reportable and generally taxable, a visitor must have, or have applied for, a Social Security Number or an Individual Taxpayer Identification Number (ITIN) (see Section IV.D.2) before an honorarium payment can be made.

2. E Visas--Treaty Trader and Treaty Investor

E-1 visa holders may not be employed by the University. However, these individuals may be reimbursed for incidental expenses, i.e., honorarium or travel reimbursements, without violating their visa status. **The dependents of E-1 visa holders (spouse and children) may be employed, provided they have a valid employment authorization.**

3. F Visas--Academic Students and Spouses

An F-1 visa is issued to nonresident students attending academic institutions or enrolled in language training programs. An F-1 student is admitted for his or her "duration of status," defined as the period of time during which the student is pursuing a full course of studies in any educational program, and any periods of authorized practical training, plus sixty (60) days within

III. PAYMENTS TO ALIENS

## D. TERMS AND CONDITIONS OF NONRESIDENT VISAS

3. F Visas--Academic Students and Spouses (Cont'd.)

which to depart from the United States. An F-1 student may be employed on campus for no more than twenty (20) hours a week while school is in session. During periods when school is not in session, the student may work full time, provided the student is eligible, and intends to register for the next school session.

While the INS places no further restrictions on employment on campus, some campuses may require that an F-1 student obtain special permission from the campus foreign student adviser before accepting nonacademic campus employment (i.e., other than as a teaching or research assistant or a reader). This is done to ensure that the student has a financial need and that his or her academic progress will not be adversely affected by such employment.

Off-campus employment, including employment on a campus other than the one the student is attending, requires written authorization. Such authorization may come from the INS or from the international students and scholars office at the school of record.

(Please contact your local international students and scholars office for further information.) Such permission normally allows employment for twenty (20) hours per week during the school year and forty (40) hours per week during vacation periods.

Under certain circumstances specified by the INS, temporary employment may be authorized for practical training related to the student's course of study prior to completion of the student's studies. However, such employment cannot exceed twelve (12) months in the aggregate. After completion of the student's studies, the student cannot be employed for more than twelve months. Employment for practical training requires certification by the foreign student advisor, or by both the foreign student advisor and the INS, depending on the circumstances.

An F-2 visa is issued to the alien spouse of an F-1 student. The holder of an F-2 visa **may not accept any employment.**



#### 4. H Visas--Temporary Workers or Trainees and Spouses

Holders of an H-1B, H-2, or H-3 visa are authorized to work, in accordance with the terms and conditions of their admission. Each individual is admitted to the United States pursuant to a petition filed by a particular employer for a specific job or training program and is not free to accept other employment.

An H-1B visa is issued to alien professionals of exceptional merit and ability for temporary employment. An approved H-1B petition is valid for a period of up to three years. Extensions may be authorized, but the alien's total stay generally may not exceed six years.

An H-2 visa is issued for temporary employment to aliens with unique or specialized expertise only when it can be demonstrated by means of a labor certification that no qualified Americans are available to accept such employment. The labor certification is normally valid for only one or two years, subject to possible renewal. An extension of stay may not exceed more than three years.

An H-3 visa is issued to aliens for participation in training programs not available in their home country. Few H-3 visas are issued for University positions, since the employer must present extensive documentation that an elaborate training program, with full supervision, will be provided. An approved petition is valid for the documented length of the approved training program.

An H-4 visa is issued to the alien spouse of an H-1, H-2, or H-3 visa holder. The holder of an H-4 visa **may not accept any employment.**

#### 5. J Visas--Exchange Visitors and Spouses

A J-1 visa is issued to a foreign scholar or student for temporary participation in approved programs of study, teaching, research, or training. It is also issued to individuals classified as "international visitors."

The holder of a J-1 visa may receive salary, honoraria, or other compensation for services, as well as reimbursement for travel and subsistence expenses, *but only for the academic undertaking for*

III. PAYMENTS TO ALIENS

## D. TERMS AND CONDITIONS OF NONRESIDENT VISAS

5. J Visas--Exchange Visitors and Spouses (Cont'd.)

*which the holder was admitted.* In addition, a J-1 visitor must have permission to accept employment from the visitor's sponsoring agency. The immigration status of a J-1 visitor is valid for the duration of status. The individual must pursue the program for which he or she was admitted to the United States as described on the Certificate of Eligibility for Exchange Visitor (J-1) Status Form (IAP 66) issued by the program sponsor. However, most J-1 scholars are permitted to remain in the United States for three years.

The holder of a J-1 *student* visa may receive salary, honoraria, or other compensation for services, as well as reimbursement for travel and subsistence expenses. However, regulations require that all J-1 students have a work authorization for **any employment** they wish to engage in, whether it is on-campus or off-campus. The immigration status of a J-1 student is valid for the duration of his or her status. The student must pursue the program for which he or she was admitted to the United States, as described on the IAP 66 issued by the program sponsor. (For further information regarding the J-1 student work authorization, contact your local International Student and Scholars Office.)

A J-2 visa is issued to the alien spouse of an exchange visitor. The holder of the J-2 visa may be employed only with special authorization by INS. (Income from the employment of a spouse or dependent may be used to support the family's recreational and cultural activities and related travel. Employment is normally not authorized if this income is needed to provide support for the J-1 visitor.)

6. K Visas--Fiancé(e) of an American Citizen

A K-1 visa is issued to an individual who is coming to the United States to marry an American citizen. The individuals must marry within 90 days and the visa holder must apply for permanent residence. A work authorization may be requested at the time the visa holder enters the United States; the temporary authorization is shown on his or her I-94 (Entry Permit).

A K-2 visa is issued to the minor child (or children) of a K-1 visa holder. The holder of a K-2 visa may request work authorization upon entry to the United States. The temporary work authorization is shown on the I-94.

7. L Visas -- Intra-company Transfers and Dependents

The L-1 visa is issued to intra-company transfers, i.e., managers or executives who have worked abroad for a branch of a U.S. firm. Individuals on an L-1 visa may only work for the company that obtained the visa classification on their behalf; no other work is permitted. The L-1 visa is listed for informational purposes only since it is not applicable to University employees.

The L-2 visa is issued to the dependent of an L-1 visa holder. An L-2 dependent may accept University employment if he or she has been granted a work authorization. The work authorization is shown on the I-94 ID card or the employment authorization document (EAD).

8. M Visas--Vocational Students and Spouses

The M-1 visa is issued to students enrolled in courses, other than language training programs, at established vocational or other recognized nonacademic institutions. The M visa is listed here for *informational purposes only since it is not applicable to University students.*

The M-2 visa is issued to the alien spouse of an M-1 student. A holder of the M-2 visa **may not accept employment.**

9. O Visas--Extraordinary Ability

An O-1 or O-2 visa holder is admitted to the United States for specific events. O-1 and O-2 visas are issued to individuals who have established extraordinary ability in their fields of science, arts, education, business, or athletics. The alien must demonstrate extraordinary ability through extensive documentation of sustained national or international acclaim. These individuals may be paid any amount by the employer who filed the request and received approval for their O visas. The alien's total period of stay in the United States is limited to the duration of the event.

III. PAYMENTS TO ALIENSD. TERMS AND CONDITIONS OF NONRESIDENT VISAS9. O Visas--Extraordinary Ability (Cont'd.)

An O-3 visa is issued to the dependents of an O-1, or O-2 visa holder. **The holder of an O-3 visa may not be paid from any U.S. source.**

10. P Visas--Performing

P-1, P-2, and P-3 visas are issued for the temporary admission of entertainment groups, athletes (individuals or a team), and individuals accompanying such groups. P visa holders are admitted to the United States to teach, perform, or coach under a program that is culturally unique. These individuals may be paid any amount by the employer who filed and received approval for their P-1, P-2 or P-3 visa. The alien's total period of stay in the United States is limited to the duration of the event.

A P-4 visa is issued to the dependents of a P-1, P-2, or P-3 visitor. **The holder of the P-4 visa may not be paid from any U.S. source.**

11. Q Visas--International Cultural Exchange Visitors

The Q visa is issued to individuals who will participate in international cultural exchange programs established to enhance Americans' knowledge and appreciation of different world cultures. Q visa holders are authorized to work for specific employers, e.g., Disney World's Epcot Center in Florida. Examples of nonresident employees include Chinese acrobats and members of Bavarian Oktoberfest bands. The Q visa is listed here for information purposes only.

12. TN and TD Classifications--and Their Dependents

This special classification was established by the INS as a result of the North American Free Trade Agreement (NAFTA). It is not a visa category. Under NAFTA, a qualified Canadian or Mexican business person may be admitted temporarily to the United States to engage in business activities at a professional level, for a period not to exceed one year. An extension of stay may be granted by the INS. The Canadian or Mexican visitor must present to the INS documentation demonstrating that he or she seeks entry to the United States to engage in business activities for a U.S. employer at a professional level (often as a researcher).

Such documentation is often in the form of a letter from the prospective employer(s) in the United States. The Canadian or Mexican visitor's I-94 will show a "TN" classification; a visa is not required.

A TD (Trade Dependent) visa is generally issued to the spouse of a Canadian or Mexican TN visitor. **The holder of a TD classification may not accept employment.**

### 13. WB and WT Classifications

Refer to Section C.1 above, Visitors for Business and Pleasure--B Visas and WB and WT Visa Waivers, for the terms and conditions and payment provisions of these visa classifications.

#### E. HEALTH INSURANCE REQUIREMENTS

Nonresident alien **employees** are required by the University to have medical insurance coverage as a condition of University employment.<sup>6</sup> Nonstudent employees who do not qualify for University health coverage are required to obtain medical insurance through some other means and to provide proof of such coverage at the time of employment.

\*\* The "J" visa exchange visitor program requires all international faculty, researchers, scholars and their dependent family members to have adequate health insurance, including repatriation of remains. The University health plans meet the required requirements except for repatriation and medical evacuation. International visitors with "J" visas should contact their department for additional information.

Registered students may fulfill this requirement through participation in student health services or insurance plans offered to students. Other arrangements for group coverage may be available through the campus. Foreign scholars who receive honorarium or reimbursement payments are not required to have health insurance.

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<sup>6</sup> University of California Group Insurance Regulations, Sections 1000, Core Medical Plan, and 1100, Career Medical Plans.

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#### IV. WITHHOLDING AND REPORTING OBLIGATIONS

##### A. RESIDENT AND NONRESIDENT STATUS

Resident aliens are subject to income tax under the same rules that apply to U.S. citizens. Thus, they are subject to graduated income tax rates on income received from all sources, both within and outside the United States, and are allowed the same deductions for exemptions as are citizens.

Resident aliens are subject to income tax under the same rules that apply to U.S. citizens. Thus, they are subject to graduated income tax rates on income received from all sources, both within and outside the United States, and are allowed the same deductions for exemptions as are citizens.

Nonresident aliens are taxed only on income received from sources within the United States. Such income may be subject to taxation either on the basis of the graduated income tax rates or at a flat rate of 30 percent (in most cases), depending on the nature of the income and the applicable tax laws. In general, nonresident aliens can only claim "single" filing status regardless of their marital status and can only claim a single personal exemption regardless of the actual number of their dependents.

##### B. TAX TREATIES

When the United States enters into a tax treaty agreement with a foreign country, ***the treaty supersedes Federal tax laws*** and provides tax benefits to aliens who are residents of the treaty country. Such aliens may be eligible for reduced tax rates or for exemption from Federal tax and withholding, if they meet the requirements of the particular treaty.

The tax treaty provisions that most frequently apply to the University are for personal services, teaching services, scholarship/fellowship payments, royalties<sup>7</sup>, student services, and compensation received during training. Information regarding the personal service articles and teaching articles is summarized below.

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<sup>7</sup> The UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding, must be filed by all nonresident aliens who receive U.S. source royalty payments or scholarship/fellowship payments and who wish to claim exemption from withholding based on a tax treaty between the United States and their home country. For a copy of this form refer to Exhibit A.

1. Personal Services Articles

Most applicable personal services articles provide that a resident of a tax treaty country is exempt from Federal income tax on compensation received for personal services performed in the United States, if the individual is employed by a foreign employer and is temporarily in the United States for a period or periods not exceeding a certain number of days during the taxable year and if total compensation does not exceed a certain amount.

2. Teaching Articles

The teaching articles generally provide that a professor, teacher, or researcher who is a resident of a tax treaty country and who visits the United States to teach or conduct research at an educational institution is exempt from Federal income tax on compensation received for such services, generally for a period of two or three years. **However, some tax treaties exempt compensation for teaching services only and do not include research services within the scope of the exemption.**

Because tax treaties are lengthy and the provisions vary for each treaty, either the specific treaty or a recent edition of the following IRS publications should be consulted to determine the benefits that may be available to the alien:

[Publication 515](#), Withholding of Tax on Nonresident Aliens and Foreign Corporations

[Publication 519](#), U.S. Tax Guide for Aliens

[Publication 901](#), U.S. Tax Treaties

Detailed information about a particular provision of a treaty is available from a local IRS office, or may be obtained from the Foreign Operations District, IRS, Washington, D.C. 20225. The IRS only updates its publications *annually*; however, there are a number of private tax treaty services that provide *monthly updates* of new or revised tax treaties. Copies of full treaties are also available at many public libraries.

IV. WITHHOLDING AND REPORTING OBLIGATIONS (Cont'd.)

## C. FEDERAL INCOME TAX WITHHOLDING AND REPORTING PROCEDURES

The procedures and the forms described below were developed to help accounting offices meet Federal tax withholding and reporting requirements with respect to payments made to aliens. Accounting offices may modify the procedures or forms, as appropriate, to meet their needs, provided that the Federal requirements are met.

In order to apply the correct rate for withholding Federal income tax, it is **necessary** to determine the residency status of any alien who will be receiving a payment from the University. Thus, aliens who will be receiving salary, wages, scholarships, fellowships, or payments for independent personal services are **required** to complete the UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding<sup>8</sup> form (Exhibit A). This form must be provided to the alien by the employing department or the accounting office. In most cases, residency status may be determined based on information provided on this form. The following procedures apply:

1. Salaries and Wages<sup>9</sup>

Appendix E contains a chart that displays the types of forms required for non-U.S. citizens. Completion of these forms is required to ensure that the individual's citizenship is properly coded in the Payroll Personnel System (PPS). The chart also displays the type of year-end tax statement used to report such payments.

## a. Resident Aliens

Resident aliens employed by the University are subject to regular graduated tax withholding and may claim marital status and withholding exemptions on the same basis as U.S. citizens.

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<sup>8</sup> The UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding form is available on the Payroll Coordination and Tax Services web site. The web site is located at <http://www.ucop.edu/ucophome/cao/paycoord> - Taxation of Nonresident Aliens.

<sup>9</sup> Compensation paid to a nonresident alien for services performed outside the United States is considered to be foreign source income; therefore, no withholding is required. (Refer to IRS Publication 515 for special conditions concerning residence of Puerto Rico.)



## b. Nonresident Aliens

Nonresident aliens employed by the University are subject to regular graduated tax withholding at the "single" filing status rate, i.e., they can claim only one personal exemption, regardless of their marital status and are allowed only a single personal exemption regardless of the actual number of their dependents. A nonresident alien must complete a form W-4 (University of California Employee's Federal-State Withholding Allowance Certificate) to claim the personal exemption. Additionally, nonresident aliens must request<sup>10</sup> additional federal tax withholding in the amount of \$7.60 per week or \$33.10 per month (see exceptions, below).

\*\*\* A nonresident alien who is a resident of Canada or Mexico must claim single marital status, but may claim the same personal exemptions as U.S. citizens. The alien may claim a personal exemption for a spouse only if the spouse has no income subject to U.S. tax for the tax year. A resident of South Korea also must claim single marital status but, under certain conditions, may claim additional exemptions for a spouse and dependent children. IRS Publication 519 provides further information concerning tax withholding for residents of Canada, Mexico, \*\*\* South Korea, and students from India.

Nonresident aliens may not claim the no-tax-liability exemption<sup>11</sup> from Federal income tax withholding.

c. Tax Treaty Exemption from Withholding<sup>12</sup>

If an alien student, teacher, or researcher qualifies for exemption from Federal withholding tax under a tax treaty, based on

<sup>10</sup> IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Corporations, provides further information regarding the additional Federal tax.

<sup>11</sup> A nonresident alien cannot write EXEMPT on line 7 of the Form W-4.

<sup>12</sup> The Form 8233 and the tax treaty statement are available on the Payroll Coordination and Tax Services web site. The web site is located at <http://www.ucop.edu/ucophome/cao/paycoord/>

## IV. WITHHOLDING AND REPORTING OBLIGATIONS

## C. FEDERAL INCOME TAX WITHHOLDING AND REPORTING PROCEDURES

1. Salaries and Wages

## c. Tax Treaty Exemption from Withholding (Cont'd.)

information provided in the UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding form and the specific tax treaty article, the employee must complete IRS Form 8233, Exemption from Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual (Exhibit C) in order to claim that exemption. (The employee should disregard references on the form to independent personal services.) The employee also must provide the tax treaty statement information required by IRS Revenue Procedures 87-8, 87-9, 93-22 and 93-A. The tax treaty statements are available on the Payroll Coordination and Tax Services web site.

Upon receipt of the employee's [Form 8233](#) and the tax treaty statement, the accounting office must complete the Withholding Agent Certification portion of Form 8233 and attach the tax treaty statement. Both items must be submitted to the IRS within five days of certification. The IRS is required to review the Form 8233 and notify the University if there is a problem with the Form. However, if no notification has been received from the IRS within 10 days after the Form 8233 was mailed, the Form is deemed to be accepted and the exemption from withholding takes effect. Withholding must be instituted, however, if a subsequent notification is received from the IRS rejecting the Form 8233. A Form 8233 and tax treaty statement must be filed for each tax year to which the treaty applies.

A copy of the Form 8233 and the tax treaty statement should be given to the employee. One copy is retained for the individual's file, and another is attached to the paper Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.

d. Notification to Employee of Withholding Status

Upon receipt of the completed UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding form (and the IRS Form 8233, when appropriate), the accounting office may complete and send the employee a copy of the Withholding Tax Status--Employee form (Exhibit B), to notify him or her of the withholding category that applies.

2. Scholarships and Fellowships

Refer to Accounting Manual chapter [T-182-77](#), Taxes: Taxation of Scholarship and Fellowship Grants and Educational Assistance, for IRS requirements for Federal income tax withholding and reporting of scholarship payments, tuition reductions, and employee educational assistance.

3. Payments for Independent Personal Services

The following procedures apply to the payment of honoraria, consulting fees, performance fees, or other stipends for services ordinarily initiated by means of a Check Request, Form U5. Section III. C includes a partial list of visa classifications, including those that permit a nonresident alien to receive payments for services and/or reimbursement of travel and incidental expenses. Such payments may be restricted to the program sponsor that requested the visa on behalf of the alien. The campus office responsible for international students and scholars can provide further information regarding visa classifications.

- a) Resident Aliens. If it appears from information provided on the UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding form that the independent contractor is a resident alien, the payment is not subject to tax withholding, but is reported to the IRS by the accounting office on Form 1099-MISC, U.S. Information Return.
- b) Nonresident Aliens. A nonresident alien who qualifies for exemption under a tax treaty must complete, sign, and file IRS Form 8233 with the accounting office, in order to claim

IV. WITHHOLDING AND REPORTING OBLIGATIONSC. FEDERAL INCOME TAX WITHHOLDING AND REPORTING PROCEDURES3. Payments for Independent Personal Services (Cont'd.)

the exemption. If exemption from withholding is warranted, the accounting office accepts the form by completing Part II, Withholding Agent Certification. The accounting office then forwards [Form 8233](#) within five days of acceptance to:

Internal Revenue Service  
International Returns Section  
P. O. Box 920  
Bensalem, PA 19020-8518

The exemption from withholding may be allowed immediately upon receipt of the Form 8233, if the withholding agent finds it to be complete and accurate or the withholding agent may continue to wait 10 days after sending the form to the IRS before allowing tax treaty benefits. A copy of Form 8233 must be attached to IRS [Form 1042-S](#), which is filed annually with the IRS. A copy of Form 8233 is retained by the accounting office, and another copy is given to the alien for his or her records.

If a nonresident alien (with other than F-1 or J-1 visa status) claims the personal exemption amount, procedures regarding the Form 8233, as described in paragraph b), above, must be followed.

\*\*\* A nonresident alien who is not a resident of Canada, Mexico, or South Korea is allowed one personal exemption. A nonresident alien who is a resident of Canada or Mexico may claim the same personal exemptions as a U.S. citizen. (In order to claim a personal exemption for a spouse, the claimant must establish that his or her spouse has no income subject to U.S. tax for the tax year.)

\*\*\* Under certain conditions, residents of South Korea may claim extra exemptions for a spouse and dependent children. Payments are then subject to withholding at a flat rate of 30

percent. IRS [Publication 519](#) provides further information concerning tax withholding for residents of Canada, Mexico and South Korea.

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Payments to nonresident aliens (other than residents of Canada, Mexico or South Korea) who perform personal services in the United States are subject to withholding tax at a rate of 30%, except that only one personal exemption is allowed regardless of marital status or the number of dependents.

\*\*\*

Nonresident aliens with F-1 or J-1 visa status who are residents of Canada or Mexico may claim married status and the same personal exemptions as U.S. citizens. (In order to claim a personal exemption for a spouse, the claimant must establish that his or her spouse has no income subject to U.S. tax for the tax year.)

\*\*\*

Under certain conditions, residents of South Korea may claim married status and extra exemptions for a spouse and dependent children. (IRS Form 8233 is not required to claim the personal exemption(s).) IRS Publication 519 provides further information concerning tax withholding for residents of Canada, Mexico or South Korea.

\*\*\*

Payments to all other nonresident aliens are subject to withholding at a flat rate of 30-percent. ***However, In order to reduce the over withholding that may result when tax is withheld at the 30-percent rate, an alien may obtain a reduced withholding rate in one of the following two ways:***

#### **Withholding Agreement**

Prior to receiving any payments in the tax year, an alien may enter into an agreement with the IRS regarding the amount of withholding required. The alien must file two copies of the agreement with the accounting office. One copy must be attached to the [IRS Form 1042-S](#) filed annually with the IRS, and one copy is retained by the accounting office. The alien should retain a copy for his or her records.

IV. WITHHOLDING AND REPORTING OBLIGATIONSC. FEDERAL INCOME TAX WITHHOLDING AND REPORTING PROCEDURES3. Payments for Independent Personal Services (Cont'd.)**Final Payment**

The 30-percent rate is applied to all payments except the final payment made to the alien during the tax year. Before receipt of the final payment, the alien may obtain a letter from the IRS that states: (1) what portion of the final payment is exempt from withholding and (2) the amount that may be paid to the alien due to the exemption. The alien should retain a copy of the letter for his or her records and must file two copies with the accounting office. (The accounting office must attach one copy to the [Form 1042-S](#) filed annually with the IRS and retain the other copy for its records.)

Upon receipt of the completed UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding form<sup>13</sup> (and, when appropriate, a Form 8233), the accounting office completes and sends to the alien the Withholding Tax Status--Nonemployee form (Exhibit D), to provide notification of the withholding category that applies.

4. Tax Clearance for Departing Aliens

Generally, departing aliens must obtain a certificate of compliance (Form 1040C), also known as an exit permit or sailing permit, from the IRS. This certificate, is a provisional tax statement that proves the alien's tax obligations have been fulfilled.

These tax clearance procedures are required even when no income was received during the year or when income received is exempt from tax under a tax treaty. However, an individual (or the individual's spouse) will not be required to file a Form 1040C (sailing permit) if the individual (or spouse) was (i) admitted to the United States on an F-1, F-2, H-3, H-4, J-1, or J-2 visa; **and**

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<sup>13</sup> If the accounting office is unable to obtain the UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding form or otherwise determine the status of the alien, the law requires withholding at the 30 percent rate.

earned no U.S. source income while in the United States other than payments received for travel, maintenance, tuition, value of services or accommodations, or income allowed under the individual's (or spouse's) visa status; (ii) was admitted to the United States on a M visa **and** earned no U.S. source income other than that from employment authorized under U.S. immigration laws; or (iii) was admitted to the United States, on a B-1 or B-2 visa and did not stay in the United States for more than 90 days during the calendar year. If these requirements are not met, a Form 1040C is required.

Upon notification of an alien's intended departure, the accounting office will prepare a provisional tax statement (provisional IRS Form W-2, Form 1042-S, or Form 1099, as appropriate) and send it to the alien, together with a copy of the Provisional Tax Statement Instructions (Exhibit E). (The provisional tax statement may not be filed by the alien to request a tax refund in lieu of the Form W-2 or Form 1042-S issued at year-end.)

5. Year-end Tax Reporting

a. Form W-2

Federal income tax withheld from salaries and wages paid to resident or nonresident alien employees is reported on IRS Form W-2 in accordance with the same rules that apply to tax withheld from citizens.

b. Forms 1042-S and 1042

Federal income tax withheld from vendor payments to nonresident aliens, (i.e., scholarships, independent contractor payments, royalties, etc.) is reported on Form 1042-S. Salary and wage payments made to nonresident aliens must normally be reported on a Form W-2 as noted above; however, if the payment is exempt from tax under a tax treaty, the exempt portion of the wage payment must be reported on Form 1042-S. A wage payment may have to be reported on **both** Form W-2 **and** 1042-S if, for example, a portion of the payment is exempt under a tax treaty but the remainder of the payment is taxable.

IV. WITHHOLDING AND REPORTING OBLIGATIONSD. TAXPAYER IDENTIFICATION NUMBERS5. Year-end Tax Reporting

## b. Forms 1042-S and 1042 (Cont'd.)

Payroll and vendor payments made to nonresident aliens exempt from withholding, are reported on IRS Forms 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, on or before March 15 of each year. Under IRS regulations, an employer issuing 250 or more Forms 1042-S must file its returns on magnetic tape.

A paper Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, must be filed whenever Forms 1042-S (paper documents or magnetic tape) are filed, whether or not any tax was withheld. Any paper Forms 1042-S or 8233, tax treaty statements, or other required forms or attachments must be transmitted with the Form 1042, which is due by March 15 of each year.

## c. Form 1099-MISC

Vendor system payments made to resident aliens exempt from withholding are reported to the IRS on IRS Forms 1099-MISC on or before February 28 of each year.

D. TAXPAYER IDENTIFICATION NUMBERS1. Social Security Number

A resident or nonresident alien who is employed by the University must obtain a Social Security number, which is required on individual tax returns filed by the employee and on the Form 1042-S or Form W-2 filed by the University. To obtain a Social Security number, a Form SS-5 (Application for a Social Security Card) must be completed and presented in person at the nearest Social Security Administration (SSA) office (call 1-800-SSA-1213 for locations and information). The SSA is the only agency authorized to issue Social Security numbers.

Individuals must present the following original documents or certified copies when applying for a



Social Security number:

- Proof of identify (e.g., a birth certificate or valid passport),
- Work authorization or proof of eligibility to be in the United States (e.g., Form I-94, Arrival/Departure card, or Form IAP 66).

It normally takes three to four weeks to receive a Social Security number; therefore, the nonresident alien should apply for a number as soon as he or she arrives in the United States. The individual should request a receipt of application at the time the completed Form SS-5 is submitted to the SSA office. This receipt serves as evidence that a number has been applied for and will allow the individual to begin work or to be paid.

See Exhibit G for a copy of the Form SS-5. The Form is also available on the Social Security Administration web site located at the following web site: <http://www.ssa.gov/online/ss-5.html>.

## 2. Individual Taxpayer Identification Number

### a. Eligibility Requirements

Any individual who is not eligible to obtain a Social Security number must obtain an ITIN. An ITIN is a nine-digit number that begins with a "9". The requirement to obtain an ITIN applies primarily to nonresident aliens who receive honorarium or other payments for independent contractor services or who are recipients of scholarship or fellowship payments.<sup>14</sup> Individuals required to file a tax return or who can be claimed as a dependent on a return also must have an ITIN.

A nonresident alien who is issued an ITIN and who is later entitled to a Social Security number must apply for a Social Security number and relinquish the ITIN.

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<sup>14</sup> Nonresident aliens with an ITIN may not be paid through the PPS.

IV. WITHHOLDING AND REPORTING OBLIGATIONSD. TAXPAYER IDENTIFICATION NUMBERS2. Individual Taxpayer Identification Numbera. Eligibility Requirements (Cont'd.)

An ITIN has no correlation with an individual's immigration status or the right to be legally employed in the United States. Therefore, since the ITIN is intended for **tax use only**, care should be taken not to mistake an ITIN for a Social Security number in the employment eligibility review process.

Please note that an individual who applies for and receives an ITIN is not eligible to participate in the Social Security or Medicare systems.

b. Application Process

In order to expedite the ITIN application process, a campus or Laboratory may enter into an agreement with the IRS to become an acceptance agent for its location. Under an agreement with the IRS, an acceptance agent would assume responsibility for providing the required information to the IRS and to the applicant. Appendix H contains a summary of the IRS acceptance agent procedures.

Refer to Exhibit F for a copy of the Application for IRS Individual Taxpayer Identification Number (Form W-7). The form is also available on the Fedworld web site located at the following address:  
<http://ftp.fedworld.gov/pub/irs-pdf/fw7.pdf>.

E. FICA Tax

The Federal Insurance Contributions Act (FICA) provides a system of social security and Medicare benefits financed through taxes on employers and employees. FICA taxes and benefits consist of two parts: social security or Old Age, Survivors, and Disability Insurance (OASDI), and Hospital Insurance for senior citizens and the disabled (Medicare).

1. Exempt Visa Holders

An alien who is in one of the following two categories is exempt from OASDI and Medicare taxes:

A ***nonresident*** alien holding an F-1, J-1, M-1, or Q-1 visa is exempt from OASDI and Medicare taxes on University earnings, provided that such earnings are in payment for services performed to carry out the purpose for which the alien was admitted to the United States. **However, the spouse and dependents of the primary visa holder (who usually hold an F-2, J-2, M2, or Q-2 visa) are subject to OASDI and Medicare taxes.**

***In addition, an alien employee with a F-1 or J-1 visa who is considered a resident alien (under the substantial presence test) for tax purposes is subject to OASDI and Medicare withholding.***

## 2. Totalization Agreements

An alien whose earnings are subject to taxes or contributions under the social security system of a foreign country with which the United States has a totalization agreement is exempt from the FICA tax when the exemption is properly substantiated.

In order to claim the totalization agreement as an exemption from OASDI and Medicare taxes, the employee must check with the agency that administers his or her home country's social security system for specific rules governing totalization agreements. Once the totalization agreement has been approved, the individual will be provided with a "*Certificate of Coverage*" from the agency administering the home country's social security system.

If a certificate is not provided by the home country, the alien must apply to the U.S. Social Security Administration's Office of International Policy to obtain a special certificate showing that the individual's wages are exempt from OASDI and Medicare taxes. This certificate of coverage will specify a beginning and an end date during which the U.S. employer is exempt from withholding OASDI and Medicare taxes from the alien. (See Appendix F for a current list of countries with totalization agreements). Additional information regarding totalization agreements can be found at the following web site:

<http://www.ssa.gov/international/index.html>.

Refer to Accounting Manual chapter [P-196-30](#), Payroll: OASDI and Medicare Contributions.

IV. WITHHOLDING AND REPORTING OBLIGATIONS

## E. FICA Tax (Cont'd.)

Aliens employed by the University (other than the exempt individuals identified above) are subject to OASDI and Medicare taxes under the same regulations that apply to other University employees. Refer to the UCRP Regulations and Accounting Manual chapters [P-196-30](#), Payroll: OASDI and Medicare Contributions, and [P-196-78](#), Payroll: UCRP Accounting Procedures.

V. CALIFORNIA STATE TAX

Regardless of their Federal income tax status, all aliens are subject to California Personal Income tax in the same manner as U.S. citizens. Refer to Accounting Manual chapters [P-196-77](#), Payroll: State Tax Withholding from Employees, and [D-371-77](#), Disbursements: State Tax Withholding from Nonwage Payments to Nonresidents of California.

VI. RESPONSIBILITIES

Federal income tax laws contain special provisions regarding foreign scholars who are visiting the United States for the purpose of teaching, research, study, or training. In addition, tax treaties between the United States and certain countries contain special provisions for income tax to be paid by resident and nonresident scholars. Therefore, it is frequently necessary to seek clarification from the IRS prior to extending tax treaty benefits to an alien. However, information obtained verbally from the IRS should be treated as guidance only and may not be relied upon in any subsequent disputes with the IRS or used as precedent. Revenue Procedure 96-1 provides specific procedures for obtaining official rulings from the IRS. Questions concerning University policy or taxes should be referred by the campus accounting office to the Vice President-- Financial Management.

It is the responsibility of the employing or contracting department or unit to obtain and forward to the accounting office the required UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding form for an alien scheduled to receive a University payment.

It is the responsibility of the accounting office to ensure that all payments made to aliens are properly reported and that applicable taxes are withheld.

VII. REFERENCES

Accounting Manual chapters:

- [D-371-12.1](#) Disbursements: Accounting for and Tax Reporting of Payments Made through the Vendor System.
- [D-371-35](#) Disbursements: Honorarium Payments
- [D-371-77](#) Disbursements: State Tax Withholding from Nonwage Payments to Nonresidents of California.
- [P-196-11](#) Payroll: Accounting for and Tax Reporting of Mandatory Deductions and Insurance Benefit Contributions.
- [P-196-30](#) Payroll: FICA and Medicare Contributions.
- [P-196-77](#) Payroll: State Tax Withholding from Employees.
- [P-196-78](#) Payroll: UCRS Accounting Procedures.
- [T-182-77](#) Taxes: Taxation of Scholarship and Fellowship Grants and Educational Assistance

Business and Finance [Bulletin G-28](#), Policy and Regulations Governing Travel

University Group Insurance Regulations--Health Plans, Section 170.

IRS publications:

- [Publication 15](#), Circular E, Employer's Tax Guide.
- [Publication 515](#), Withholding of Tax on Nonresident Alien and Foreign Corporations.
- [Publication 519](#), U.S. Tax Guide for Aliens.
- [Publication 901](#), U.S. Tax Treaties.

IRS forms and publications are available on the following IRS web site:

[http://www.irs.ustreas.gov/prod/forms\\_pubs/index.html](http://www.irs.ustreas.gov/prod/forms_pubs/index.html)

or may be ordered from the IRS Western Service Area, Rancho Cordova, CA 95743-0001. In addition, many public libraries maintain reference sets of IRS forms and publications.

VII. REFERENCES (Cont'd.)

Other publications:

Faculty Member's Guide to U.S. Immigration Law, National Association for Foreign Student Affairs. This publication may be obtained from Publications Order Desk, NAFSA, 1860 19th Street, NW, Washington, D.C. 20009.

A Guide to the Employment of Aliens, College and University Personnel Association. This may be obtained from CUPA, 11 Dupont Circle, Suite 120, Washington, D.C. 20036.

Donna E. Kepley, Nonresident Alien Tax Compliance: A Guide for Institutions Making Payments to Foreign Students, Scholars, Employees, and Other International Visitors. This may be obtained from Arctic International, 17761 I Street, N.W., Suite 900, Washington, D.C. 20006 or at the following web site: <http://www.arcticintl.com/>

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\*EXHIBIT A



University of California  
Certificate of Foreign Status for Federal Tax Withholding (UC W-8BEN)

This information is required in accordance with the provisions of the Internal Revenue Code applicable to foreign individuals. The University will use this information to determine the appropriate Federal tax withholding applicable to any payment(s) you receive. You must complete this form prior to receiving a payment from the University. In addition, if there is a change in your immigration status, you must complete a new form. The information requested below is confidential and will be used only to determine your correct tax withholding status. Please read the Instructions before completing this form.

If you are an employee and have a Form I-20, DS2019, or Notice of Action, please attach it. If you are an independent contractor, attach a copy of your Form I-94. If you are receiving payments from a source that did not sponsor your J visa, you must attach a copy of your approval notice from the sponsor.

**Do not complete this form if you are a U.S. CITIZEN or LAWFUL PERMANENT RESIDENT of the United States. If you are an employee, your Employment Eligibility Verification, Form I-9, must indicate that you are a U.S. citizen or lawful permanent resident.**

SECTION A. IDENTIFICATION OF PAYEE		
1. Name (Last, First, Middle)	2. Employee ID. Number	3. Taxpayer ID. Number <input type="checkbox"/> SSN <input type="checkbox"/> ITIN <input type="checkbox"/> EIN
4. Department	5. Email address	
6. University Status. Check all that apply <input type="checkbox"/> Faculty, Staff, or Student Employee <input type="checkbox"/> Scholarship /Fellowship Recipient <input type="checkbox"/> Independent Contractor <input type="checkbox"/> Working outside the U.S. (If you check this box, proceed to Section H)		
7. Street Address In U.S.	8. Permanent Residence Address	
Street Address Line 2	Street Address Line 2	
City, State, Zip Code	City, Province, Country, Postal Code	
SECTION B. HEALTH INSURANCE INFORMATION		
1. Name Of U.S. Health Insurance Carrier (See Instructions)		
SECTION C. IMMIGRATION STATUS INFORMATION		
1. Visa Classification Do you have an F or J visa classification? <input type="checkbox"/> Yes. Complete C 2 and C 3 and proceed to section D. Step 1. <input type="checkbox"/> No. Proceed to section D. Step 1.	2. Enter Original Date You Entered The U.S. (See Instructions)	3. Enter Expiration Date of Current Visa (See Instructions)
SECTION D. SUBSTANTIAL PRESENCE TEST		
The substantial presence test is used to determine whether a non-U.S. citizen should be classified for tax purposes as a resident alien or as a nonresident alien. The information below will assist you in determining your U.S. tax residency status.		
<b>Step 1</b> Check the statement that describes your status and follow the instructions after the statement.  If neither statement fits your status, proceed to Step 2.	<input type="checkbox"/> I will be in the U.S. less than 31 days in the entire calendar year for which residency is being determined. You are a nonresident alien for tax purposes. Do not complete Step 2, proceed to section G.	
	<input type="checkbox"/> I am a STUDENT on an F-1, J-1, M-1, or Q-1 visa, and including the calendar year in which this form is being prepared, throughout my lifetime I have been physically present in the U.S. as an F-1, J-1, M-1, or Q-1 visa holder (whether as a student, teacher, researcher, or trainee) for <b>five or fewer calendar years</b> . Physical presence in the U.S. in such visa status for any part of a calendar year constitutes a full calendar year of presence. List all years that you were present in the U.S. for all or any part of the calendar year in F-1, J-1, M-1, or Q-1 visa status whether as a student, teacher, researcher, or trainee status. Years present: _____  If you meet these conditions, you are a nonresident alien for tax purposes for the calendar year in which this form is completed. Do not complete Step 2, proceed to section G.	
	<input type="checkbox"/> I am a TEACHER, RESEARCHER, or TRAINEE on a J-1 or Q-1 visa, and with respect to the six calendar years immediately prior to the calendar year in which this form is being prepared, I was physically present in the U.S. as an F-1, J-1, M-1, or Q-1 visa holder (whether as a student, teacher, researcher, or trainee) for <b>less than two of such six years</b> . Physical presence in the U.S. in such visa status for any part of a calendar year constitutes a full calendar year of presence. List all years that you were present in the U.S. for all or any part of the calendar year in F-1, J-1, M-1, or Q-1 visa status whether as a student, teacher, researcher, or trainee status. Years present: _____  If you meet these conditions, you are a nonresident alien for tax purposes for the calendar year in which this form is completed. Do not complete step 2, proceed to section G.	
<input type="checkbox"/> No statement applies. Proceed to Step 2.		

<b>Step 2 Substantial Presence Test</b>	This step involves a calculation of the number of days that you have been physically present in the U.S. during the current year and the two immediately preceding years. It is important to note that some days of physical presence may not be counted for this test. Please review the Instructions before completing step 2.			
<b>YEAR</b>	<b>PERIOD (S) WHEN YOU WERE PHYSICALLY PRESENT IN THE U.S.</b>	<b>TOTAL COUNTABLE DAYS OF U.S. PRESENCE</b>	<b>CALCULATION FACTOR</b>	<b>DAYS TO COUNT</b>
Current Year: _____			X 1 =	
1st Preceding Year: _____			X 1/3 =	
2 <sup>nd</sup> Preceding Year: _____			X 1/6 =	
			<b>TOTAL</b>	

**SECTION E. SUMMARY OF FOREIGN STATUS FOR FEDERAL TAX WITHHOLDING**

- Check here if your total days in Step 2 are less than 183 days. You are a nonresident alien for Federal tax purposes for the current year. Proceed to Section G.
- Check here if your total days in Step 2 are equal to or greater than 183 days. You are a resident alien for Federal tax purposes for the current year. Proceed to Section F.

**SECTION F. CLOSER CONNECTION TEST**

Even though you meet the substantial presence test and are considered a resident alien for Federal tax purposes, you may be eligible to claim the closer connection exception. Please read the Instructions for information regarding the closer connection exception.

- Yes, I qualify for the closer connection exception and have attached an IRS determination letter. Proceed to Section G.
- No, I do not qualify for the closer connection exception. Proceed to Section G.

**SECTION G. CLAIM OF TAX TREATY BENEFITS** (Complete if applicable, otherwise proceed to section I.) (Please note that tax treaty benefits do not apply to California Personal Income Tax Withholding).

The payments that you receive from the University may be eligible for an exemption from Federal tax withholding under a tax treaty between the U.S. and your country of residence. If you are receiving a scholarship, fellowship, or royalty payment and are eligible to claim tax exemption, please complete the information below:

Country of Residence \_\_\_\_\_ Treaty Article \_\_\_\_\_  
 If you are an employee and previously used the tax treaty exemption, list all years in which you used the tax treaty exemption. Years: \_\_\_\_\_

See Instructions for further information and any additional reporting requirements.

**SECTION H. WORKING OUTSIDE THE U.S. (See Instructions)**

I certify that I am not a U.S. citizen or permanent resident of the U.S., and all of my services for the University of California are performed in \_\_\_\_\_.

**SECTION I. CERTIFICATION**

I certify I have read the Instructions for this form and that the information on this form, to the best of my knowledge and belief, is true, correct, and complete. I understand that if my immigration status changes from that which I have indicated on this form, I must submit a new Certificate of Foreign Status for Federal Tax Withholding (UC W-8BEN) form.

Signature \_\_\_\_\_ Date \_\_\_\_\_

**OFFICIAL USE ONLY**

Was the Substantial presence test met? <input type="checkbox"/> Yes <input type="checkbox"/> No	Date eligible for meeting the Substantial Presence Test.	Name Email Address	Date
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## \*EXHIBIT A: (Cont'd.)



Instructions for Completing the Certificate of Foreign Status for Federal Tax Withholding  
(UC W-8BEN)

You have been asked to complete the Certificate of Foreign Status for Federal Tax Withholding form because you are a non-U.S. citizen receiving payments from the University. Under Federal tax laws, all non-U.S. citizens are classified as either resident aliens or nonresident aliens. The University must establish your proper classification with respect to residency for Federal tax purposes in order to determine the proper tax withholding and file the appropriate reports with the Internal Revenue Service. By completing the information on the form, the University can determine whether you should be classified for Federal tax purposes as a resident alien or a nonresident alien. The Instructions below will assist you in completing this form. Please note that you must complete this form at the time of hire, rehire, or if there are any changes in your visa status.

**SECTION A. IDENTIFICATION OF PAYEE**

- NAME** – Enter your full name – Last, First, Middle.
- EMPLOYEE ID. NUMBER** – University employees enter your 9-digit University employee identification number. If you are a non-employee, leave this field blank.
- TAXPAYER ID. NUMBER** – Check the box that applies to your taxpayer ID. Number: SSN (Social Security Number), ITIN (Individual Taxpayer Identification Number), or EIN (Employer Identification Number). (If you are a *Canadian*, do not enter the social security number issued by the Canadian government). An individual otherwise ineligible to obtain a SSN may obtain an ITIN. You may obtain an ITIN, if you are eligible, by filing Form W-7, Application for Individual Taxpayer Identification Number, along with necessary documentation with the IRS Service Center in Philadelphia. You may obtain the Form W-7 from the IRS web site. Consult your department for more information regarding whether your location can obtain an ITIN for you.
- DEPARTMENT** – Enter the name of your home department – either the department compensating you or the academic department providing the scholarship/fellowship grant to you.
- EMAIL ADDRESS** – Enter your email address.
- UNIVERSITY STATUS** – Check all that apply.
- STREET ADDRESS IN U.S.** – Enter your current mailing address. Notify your department immediately of any address change.
- PERMANENT RESIDENCE ADDRESS** – Enter your permanent address in the country where you claim to be a resident for purposes of that country's income tax. (Do not use a University departmental address, P.O. Box, or in-care of address). If your permanent address is the same as # 7, you may leave # 8 blank.

**SECTION B. HEALTH INSURANCE INFORMATION**

**NAME OF U.S. HEALTH INSURANCE CARRIER** – Enter the name of your health insurance provider in the U.S. If you are a student and are covered under the University's Student Health Insurance, enter "SHI". If you are not covered under the University's Student Health Insurance, contact your campus International Students and Scholars Office for information regarding the health insurance requirement. If you are an employee and are covered under University insurance, enter UC Coverage. Employees should check with their department regarding enrollment in a University medical plan. All J-1 scholars and accompanying dependents are required by the exchange visitor program to have health insurance, including medical evacuation/repatriation coverage, from the date they enter the U.S. through their entire stay. The University Medical plans does not include evacuation/repatriation plan. If you are not covered under a evacuation/repatriation plan, contact your campus International Students and Scholars Office for additional information.

**SECTION C. IMMIGRATION INFORMATION**

- VISA Classification** – Check the box that applies to your classification. For F or J visa classifications, this information can be found on your Form I-20, DS-2019, Notice of Action, or I-94. (Please note that if your visa classification is H, O, or TN, you must be paid by the employer that filed and received approval of your petition).
- ORIGINAL DATE YOU ENTERED U.S.** – Enter the date on which you first entered the U.S. F and J visa holders please note that you may enter and leave the U.S. many times during the period of your study, teaching, or research in the U.S. (i.e., vacations, holidays, or summer breaks) but the original date of entry into the U.S. on your current visa is the first date that you arrived in the U.S. to begin your study, teaching, research, etc., not the last date that you entered the U.S.
- EXPIRATION DATE OF CURRENT VISA** – Enter the expiration date of your current visa (F visa holders this information can be found in Part 5 of the I-20 or the EAD card if on practical training. J visa holders this information can be found on the DS-2019 form in Box 3.). All other visa statuses check your Notice of Action, or I-94.

**SECTION D. SUBSTANTIAL PRESENCE TEST**

Step 1: Read the statements and check the box that corresponds to your status. Proceed to the step indicated by your choice.

Step 2: Complete each row and column in this chart. In the first column, enter the applicable calendar year. In the second column, enter the periods when you were or expect to be physically present in the U.S. In the third column, enter only "countable" days of physical presence in the U.S. In this connection, you should not count:

- Days spent solely commuting to work in the U.S. from a residence in Canada or Mexico.
- Days spent in the U.S. for less than 24 hours while in transit between two places, which are located outside the U.S.
- Days you were unable to leave the U.S. because of a medical condition that developed while in the U.S.
- Days in which you were exempt from having to count days as a student on an F-1, J-1, M-1, or Q-1 visa or as a teacher, researcher or trainee on a J-1 or Q-1 visa.

For each year, multiply the number of **TOTAL COUNTABLE DAYS OF U.S. PRESENCE** by the **CALCULATION FACTOR** indicated to arrive at the **DAYS TO COUNT** in the far right column. Add the number of days in the right hand column to calculate the Total.

**SECTION E. SUMMARY OF FOREIGN STATUS FOR FEDERAL TAX WITHHOLDING**

Check the appropriate box based on the Total Days to Count reported in Step 2 above.

**SECTION F. CLOSER CONNECTION TEST**

You may be eligible to claim the closer connection exception with the IRS if you can answer yes to the following three questions:

- Will you be in the U.S. for fewer than 183 days in the current year?
- Do you pay income taxes in your country of residency?
- Do you have a closer connection with the foreign country in which a tax home is maintained than to the U.S.?

These factors are used to determine if you meet the requisite closer connection requirements. You must file Form 8840 with the IRS to establish your claim that you are a nonresident alien. Additional information regarding the closer connection exception is set forth in the IRS Form 8840, Closer Connection Exception Statement for Aliens and Publication 519, U.S. Tax Guide for Aliens. You may obtain this form and publication from the IRS web site at the following address: [WWW.IRS.GOV](http://WWW.IRS.GOV). You must provide a copy of the IRS closer connection determination letter upon receipt to your department.

**SECTION G. CLAIM OF TAX TREATY BENEFITS**

You may be eligible for exemption from Federal income tax withholding under a tax treaty between the U.S. and your country of residence. If you wish to claim the benefits of a tax treaty you must:

- Be receiving a type of income (e.g., wages, scholarship/fellowship award, etc.) that is exempt under a specific provision of the tax treaty; and
- Meet all treaty eligibility requirements.

In addition to completing this form, nonresident aliens receiving a scholarship, fellowship, or royalty payment who want to claim the tax treaty exemption must complete the information requested in Section G to claim the exemption.

Nonresident alien employees (including students, teachers, and researchers) claiming tax exemption for wages are required to submit to the University a Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Service of a Nonresident Alien Individual, **and** must provide an additional tax treaty statement (as required under Revenue Procedures 87-8, 87-9, 93-22, and 93A).

Nonresident alien independent contractors must also submit a Form 8233 to claim tax treaty benefits.

Resident aliens who are claiming a tax treaty exemption of any kind must complete a Form W-9, Request for Taxpayer Identification Number and Certification.

Tax treaty forms may be available on your campus web site. Your department can direct you to the appropriate web site to obtain these forms. Additional information regarding tax treaty agreements is available in your campus Accounting Office.

**SECTION H. WORKING OUTSIDE THE UNITED STATES**

Compensation paid to a nonresident alien for services performed entirely outside of the U.S. is considered to be foreign source income; therefore, no U.S. tax withholding is required. If the services are performed both within and without the U.S., the total amount of the compensation must be prorated based on the total time associated with the performance of service within and without the U.S. This exclusion is applicable to both employee wages and independent contractor compensation.

If you meet the above criteria, you must complete the information requested in Section H to claim this exclusion.

You may obtain additional information from the IRS web site at the following address: [WWW.IRS.GOV](http://WWW.IRS.GOV).

**SECTION I. CERTIFICATION**

Sign and date the form. Return the completed form to the office that issued it to you.

**ADDITIONAL INFORMATION****CALIFORNIA PERSONAL INCOME TAX**

Regardless of your Federal income tax status, you are subject to California Personal Income Tax in the same manner as U.S. citizens.

**CHANGE IN CIRCUMSTANCES**

**If a change in circumstances makes the information on this form incorrect, you are required to immediately complete a new form. Failure to do so may result in incorrect Federal tax withholding and reporting. Please note that nonresident alien employees should complete the UC W-4NR/DE 4 to make a change in their withholding status. If a change in circumstances makes you a resident alien, you should complete the Form UC W-4/DE 4.**

If you become a U.S. citizen or a lawful permanent resident after submission of this form, notify your department.

**EXPIRATION OF FORM**

This form will remain in effect for a period of three years from the date that it is signed.

\*EXHIBIT A: (Cont'd.)

## ***Frequently Asked Questions***

### **1. What is the difference between a resident alien and a nonresident alien for tax purposes?**

The Internal Revenue Service (IRS) classifies all foreign nationals as either resident aliens or nonresident aliens. Resident aliens are, for the most part, taxed in the same manner as U.S. citizens. The Internal Revenue Code (IRC), however, imposes an entirely different tax system on nonresident aliens. There are many differences between the two tax regimes, but perhaps the most significant is that resident aliens, like U.S. citizens, are taxed on their worldwide income, while nonresident aliens are taxed only on their U.S.-sourced income. In addition, different income tax withholding and reporting requirements are imposed on payments made to nonresident aliens.

### **2. What are the "green card" and "substantial presence test"?**

These are the two tests that the IRS uses to classify a foreign national as either a resident alien or a nonresident alien. Generally, if either test is met, the person is a resident alien.

Under the green card test, a foreign national is classified as a resident alien on the date that the person is officially granted green card status. Resident alien status remains in effect until such time as the green card is rescinded or abandoned.

The substantial presence test measures the extent of a foreign national's physical presence in the U.S. to determine whether the person has been present in the U.S. for a sufficient amount of time to be classified as a resident alien. The substantial presence test (which is used only for tax purposes, not for immigration classification purposes) is met if the foreign national is physically present in the U.S. for a total of at least 183 days, taking into account all days of physical presence in the current year and in the two immediately preceding years. In addition, the person must be physically present for at least 31 days during the calendar year being tested. In making the 183-day calculation, the individual must count:

- The total number of days of physical presence in the U.S. during the current year;
- 1/3 of the number of days of physical presence in the U.S. during the 1st year preceding the current calendar year; and
- 1/6 of the number of days of physical presence in the U.S. during the 2nd year preceding the current calendar year.

This calculation is set forth in Section D, Step 2 of the Certificate of Foreign Status for Federal Tax Withholding (UC W-8BEN) form. For a non-exempt foreign national, the substantial presence test must be applied each calendar year to determine whether the foreign national will be treated as a resident or a nonresident alien for the year. Thus, a person's classification may change from year to year.

### **3. Who is an "exempt individual" for tax purposes?**

The term "exempt individual" does not refer to exemption from U.S. income tax; rather, it describes certain foreign national students, teachers, researchers, or trainees who are exempt from having to count days of physical presence in the U.S. toward the substantial presence test. The result of being an exempt individual is that the period of time that the person is classified as a nonresident alien is extended.

In order to qualify as an exempt individual, the person must be temporarily present in the U.S. and be in substantial compliance with the conditions of his or her visa. In addition, the individual must fit one of the following profiles:

- Present in the U.S. as a teacher/researcher/trainee or postdoctoral fellow on a J or Q visa, except that such person will not be an exempt individual for the current year if he or she had been an exempt individual for any part of two or more of the previous six calendar years. In making the two-out-of-six year determination, the person must take into account any part of the year in which he or she was (1) a teacher, researcher, trainee, or postdoctoral fellow under a J-1 or Q-1 visa, and (2) a student under an F-1, J-1, M-1, or Q-1 visa.
- Present in the U.S. as a student on an F-1, J-1, M-1, or Q-1 visa, except that such person will not be an exempt individual for the current year if he or she had been an exempt individual for any part of five calendar years throughout the person's lifetime. In making the five-year determination, the person must take into account any part of a calendar year that he or she was previously present in the U.S. as (1) a student under an F-1, J-1, M-1, or Q-1 visa, and (2) a teacher, researcher, trainee, postdoctoral fellow under a J-1 or Q-1 visa.

**4. What if I no longer qualify as an "exempt individual" and meet the substantial presence test — are there other ways I may be considered a nonresident alien for tax purposes?**

If a foreign national no longer qualifies as an exempt individual and meets the substantial presence test, he or she may still be classified as a nonresident alien under two exceptions set forth in the IRC.

- **CLOSER CONNECTION EXCEPTION.** If an individual meets the closer connection exception as described in the Instructions for Section F, the Form 8840 must be filed with the IRS so that the individual can establish his claim that he is a nonresident alien of the U.S. by reasons of the closer connection exception. The Form 8840 must be attached to Form 1040NR or Form 1040NR-EZ, if filing a tax return, or the Form can be mailed directly to the Internal Revenue Service Center, Philadelphia, PA 19255 by the due date for filing Form 1040NR or Form 1040NR-EZ.
- **STUDENTS PRESENT LONGER THAN 5 CALENDAR YEARS.** An individual may continue to extend his or her student exempt individual status beyond the 5-year lifetime maximum if he or she meets both of the following conditions:
  1. The individual does not plan to reside permanently in the U.S. (In making this determination, the IRS looks at the same factors used to determine the "closer connection" exception described above, and whether the person has taken any affirmative steps to file for status as a lawful permanent resident).
  2. The individual is in substantial compliance with the requirements of his or her current student visa.

**5. What is FICA?**

The Federal Insurance Contributions Act, (FICA) taxes are imposed on wages paid to employees. FICA taxes and benefits consist of two parts: Social Security or Old Age Survivors, and Disability Insurance (OASDI) and Hospital Insurance for senior citizens and the disabled (Medicare). The tax is imposed on both the employer and the employee. The employer is required to withhold the applicable FICA tax from the employee's wages and, in addition, contribute a like amount from its own funds. The FICA tax is imposed on U.S. citizens, resident aliens, and nonresident alien employees, but the IRC provides a FICA tax exemption for some student and nonresident alien employees (see below).

**Am I exempt from FICA tax withholding?**

A student employed by the University is exempt from FICA if he or she is:

- Enrolled in the University on at least a half-time basis, and
- Not in a career employee position.

A nonresident alien employee is exempt from FICA tax if he or she is:

- Present in the U.S. under an F-1, J-1, M-1 or Q-1 visa, and
- Performing services in accordance with the primary purpose of the visa's issuance.

In connection with these two FICA tax exemptions, please note that:

- An individual can qualify for both. Thus, a nonresident alien student who is later reclassified as a resident alien will no longer qualify for the FICA tax exemption under the nonresident alien FICA tax exemption, but may qualify under the student employee exemption.
- The spouse and dependents of the primary visa holder (i.e., F-2, J-2, or M-2, or Q-2 visa holders) are not eligible for the nonresident alien FICA tax exemption.

**6. Why do I need an SSN or ITIN?**

A resident or nonresident alien employed by the University must obtain a Social Security Number (SSN). Any individual not eligible to obtain an SSN must obtain an Individual Taxpayer Identification Number (ITIN) by filing a Form W-7, Application for IRS Individual Taxpayer Identification Number. The requirement to obtain an ITIN applies primarily to nonresident aliens who receive honoraria or other payments for independent contractor services or who are recipients of scholarship or fellowship grants. While Form W-7s are normally filed with the IRS, it may be possible for an individual to obtain an ITIN through the University. Persons interested in obtaining an ITIN through the University should contact their department for more information. An SSN or ITIN also is required on individual tax returns filed with the IRS and State tax authorities by foreign nationals, whether classified as resident aliens or nonresident aliens.

**7. What is an Income Tax Treaty?**

An income tax treaty is a bilateral agreement between two governments under which each country agrees to limit or modify the application of its domestic tax laws in an attempt to avoid double taxation. When the United States enters into a tax treaty agreement with a foreign country, **the treaty supersedes Federal tax laws** and provides tax benefits to aliens who are residents of the treaty country. Such aliens may be eligible for reduced tax rates or for exemption from Federal tax withholding, if they meet the requirements of the particular treaty. The tax treaty provisions that most frequently apply to the University are for teaching and research services, scholarship/fellowship payments, royalties, student services, and compensation received during training.

**\*EXHIBIT A:** (Cont'd.)

The U.S. currently has income tax treaties with the following countries:

Australia	Greece	Luxembourg	South Africa
Austria	Hungary	Mexico	Spain
Barbados	Iceland	Morocco	Sweden
Belgium	India	Netherlands	Switzerland
Bulgaria	Indonesia	New Zealand	Thailand
China, People's Republic of <sup>15</sup>	Ireland	Norway	Trinidad & Tobago
Canada	Israel	Pakistan	Tunisia
Cyprus	Italy	Philippines	Turkey
Czech Republic	Jamaica	Poland	Ukraine
Denmark	Japan	Portugal	USSR <sup>16</sup>
Egypt	Kazakhstan	Romania	United Kingdom
Estonia	Korea, Republic of	Russia	Venezuela
Finland	Latvia	Slovak Republic	
France	Lithuania	Slovenia	
Germany			

Because tax treaties are lengthy and the provisions vary for each treaty, either the specific treaty or a recent edition of the following IRS publications should be consulted to determine the benefits that may be available:

[Publication 515](#), Withholding of Tax on Nonresident Aliens and Foreign Corporations

[Publication 519](#), U.S. Tax Guide for Aliens

[Publication 901](#), U.S. Tax Treaties

Detailed information about a particular provision of a treaty is available from a local IRS office, or may be obtained from the Department of Treasury, Office of Public Liaison, 1500 Pennsylvania Avenue NW, Room 4418, Washington, D.C. 20220 or the IRS web site. Copies of full treaties are also available at many public libraries.

**8. How is my status for California State income tax purposes determined?**

California does not distinguish between U.S. citizens, residents, and nonresident aliens with respect to State income tax withholding. Wages paid to California residents for services performed both within and outside the State are subject to State income tax withholding. Wages paid to nonresidents of California for services performed inside the State are subject to withholding for State income tax; only wages paid to nonresidents of California for services performed outside the State are exempt from withholding. The University Form UC W-4NR/DE 4 provides information for determining a nonresident employee's tax filing status and the number of allowances to claim for income tax withholding. All new employees must complete this form. Additional information regarding California residency status may be obtained in the Franchise Tax Board, [Publication 1031](#), Guidelines for Determining Resident Status. This publication is available at the Franchise Tax Board web site.

**9. How may I obtain more information about my Federal and State tax status?**

For more information on your Federal tax status, contact the **IRS** on the web at: [WWW.IRS.GOV](http://WWW.IRS.GOV) or call (800) 829-1040.

For more information on your State tax status, contact the **Franchise Tax Board** on the web at: [WWW.FTB.CA.GOV](http://WWW.FTB.CA.GOV) or call (800) 852-5711.

<sup>15</sup> The U.S. – China income tax treaty does not apply to Hong Kong or Republic of China (i.e., Taiwan).

<sup>16</sup> The U.S. – USSR income tax treaty applies to certain members of the Commonwealth of Independent States and Georgia, which include Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, and Uzbekistan. The tax treaty does not apply to the Baltic States of Estonia, Latvia, Lithuania, Kazakhstan, Russia, and Ukraine.

EXHIBIT B

UNIVERSITY OF CALIFORNIA, \_\_\_\_\_  
Accounting Office

## WITHHOLDING TAX STATUS--EMPLOYEE

Date \_\_\_\_\_

The information you furnished this office has been reviewed and your Federal withholding tax status at the University of California will be determined based on one of the statements checked below, for the period from \_\_\_\_\_, 20\_\_\_\_ to \_\_\_\_\_, 20\_\_\_\_ (not to exceed one calendar year).

- ▶ You are a resident alien and compensation paid to you is subject to Federal income tax withholding at the same rates applied to citizens of the United States.
- ▶ You are a nonresident alien and compensation paid to you is subject to Federal income tax withholding at the same rate as a single United States citizen with one personal exemption.
- \*\*\* ▶ You are a nonresident alien who is a resident of Canada, Mexico, South Korea, or a student from India. You qualify for Federal income tax withholding on the same basis as a U.S. citizen, i.e., you are subject to regular graduated tax withholding and may claim allowable personal exemptions for dependents.
- ▶ You are entitled to benefits under Article \_\_\_\_\_ of the Income Tax Convention between the United States and \_\_\_\_\_ . Compensation paid to you, or some portion thereof, will be exempt from Federal income tax withholding.

Regardless of your Federal income tax status, you are subject to California State tax on all income earned in this State. To avoid the possibility of tax penalties at a later date, it is recommended that you contact the State of California Franchise Tax Board to ask about State income tax requirements. Contact the California Franchise Tax Board at:

World Wide Web address: <http://www.ftb.ca.gov/>  
Telephone: (800) 852-5711

\*EXHIBIT C

Form **8233**  
(Rev. December 2001)  
Department of the Treasury  
Internal Revenue Service

**Exemption From Withholding on Compensation  
for Independent (and Certain Dependent) Personal  
Services of a Nonresident Alien Individual**

OMB No. 1545-0795

▶ See separate instructions.

<b>Who Should Use This Form?</b>  <b>Note:</b> For definitions of terms used in this section and detailed instructions on required withholding forms for each type of income, see <b>Definitions</b> on pages 1 through 3 of the instructions.	<b>IF</b> you are a nonresident alien individual who is receiving . . .	<b>THEN</b> , if you are the beneficial owner of that income, use this form to claim . . .
	Compensation for independent personal services performed in the United States	A tax treaty withholding exemption for part all of that compensation and/or to claim the daily personal exemption amount.
	Compensation for dependent personal services performed in the United States	A tax treaty withholding exemption for part all of that compensation. <b>Note: Do not use Form 8233 to claim the daily personal exemption amount.</b>
	Noncompensatory scholarship or fellowship income <b>and</b> personal services income <b>from the same withholding agent</b>	A tax treaty withholding exemption for part all of <b>both</b> types of income.
<b>DO NOT Use This Form. . .</b>	<b>IF</b> you are a beneficial owner who is . . .	<b>INSTEAD</b> , use . . .
	Receiving compensation for dependent personal services performed in the United States <b>and</b> you are <b>not</b> claiming a tax treaty withholding exemption for that compensation	Form W-4
	Receiving noncompensatory scholarship or fellowship income <b>and</b> you are <b>not</b> receiving any personal services income <b>from the same withholding agent</b>	Form W-8BEN or, if elected by the withholding agent, Form W-4 for the noncompensatory scholarship or fellowship income
	Claiming only foreign status or treaty benefits with respect to income that is <b>not</b> compensation for personal services	Form W-8BEN

This exemption is applicable for compensation for calendar year \_\_\_\_\_, or other tax year beginning \_\_\_\_\_ and ending \_\_\_\_\_.

**Part I Identification of Beneficial Owner (See instructions.)**

<b>1</b> Name of individual who is the beneficial owner	<b>2</b> U.S. taxpayer identifying number	<b>3</b> Foreign tax identifying number, if any (optional)
<b>4</b> Permanent residence address (street, apt. or suite no., or rural route). <b>Do not use a P.O. box.</b>		
City or town, state or province. Include postal code where appropriate.		Country (do not abbreviate)
Address in the United States (street, apt. or suite no., or rural route). <b>Do not use a P.O. box.</b>		
City or town, state, and ZIP code		

**Note:** Citizens of Canada or Mexico are not required to complete lines 7a and 7b.

<b>6</b> U.S. Visa Type	<b>7a</b> Country issuing passport	<b>7b</b> Passport number
<b>8</b> Date of entry into the United States	<b>9a</b> Current nonimmigrant status	<b>9b</b> Date your current nonimmigrant status expires

**10** If you are a foreign student, trainee, professor/teacher, or researcher, check this box . . . ▶ **Caution:** See the **line 10 instructions** for the required additional statement you must attach.

\*Exhibit C (Cont'd.)

**Part II Claim for Tax Treaty Withholding Exemption and/or Personal Exemption Amount**

**11** Compensation for independent (and certain dependent) personal services:

**a** Description of personal services you are providing.....

**b** Total compensation you expect to be paid for these services in this calendar or tax year \$ .....

**12** If compensation is exempt from withholding based on a tax treaty benefit, provide:

**a** Tax treaty **and treaty article** on which you are basing exemption from withholding .....

**b** Total compensation listed on line 11b above that is exempt from tax under this treaty \$ .....

**c** Country of permanent residence .....

**Note:** Do not complete lines 13a through 13c unless you also received compensation for personal services **from the same withholding agent.**

**13** Noncompensatory scholarship or fellowship income:

**a** Amount \$ .....

**b** Tax treaty **and treaty article** on which you are basing exemption from withholding .....

**c** Total income listed on line 13a above that is exempt from tax under this treaty \$ .....

**14** Sufficient facts to justify the exemption from withholding claimed on line 12 and/or line 13 (see instructions) .....

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**Note:** Lines 15 through 18 are to be completed only for certain independent personal services (see instructions).

<b>15</b> Number of personal exemptions claimed ▶	<b>16</b> How many days will you perform services in the United States during this tax year? ▶
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**17** Daily personal exemption amount claimed (see instructions) ▶

**18** Total personal exemption amount claimed. Multiply line 16 by line 17 ▶

**Part III Certification**

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

- I am the beneficial owner (or am authorized to sign for the beneficial owner) of all the income to which this form relates.
- The beneficial owner is not a U.S. person.
- The beneficial owner is a resident of the treaty country listed on line 12a and/or 13b above within the meaning of the income tax treaty between the United States and that country.
- The beneficial owner is not a former citizen or long-term resident of the United States subject to section 877 (relating to certain acts of expatriation) or, if subject to section 877, the beneficial owner is nevertheless entitled to treaty benefits with respect to the amounts received.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

**Sign Here** ▶ .....

Signature of beneficial owner (or individual authorized to sign for beneficial owner) .....

Date .....

**Part IV Withholding Agent Acceptance and Certification**

Name	Employer identification number
Address (number and street) (Include apt. or suite no. or P.O. box, if applicable.)	
City, state, and ZIP code	Telephone number

Under penalties of perjury, I certify that I have examined this form and any accompanying statements, that I am satisfied that an exemption from withholding is warranted, and that I do not know or have reason to know that the nonresident alien individual is not entitled to the exemption or that the nonresident alien's eligibility for the exemption cannot be readily determined.

Signature of withholding agent ▶ .....

Date ▶ .....





**University of California  
Payroll Coordination and Tax Services**

How to complete the Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual. The instructions for completing the form are summarized below:

**YEAR:** Enter the calendar year to which the form applies.

**Part 1. Identification of Beneficial Owner**

**Line 1. NAME OF BENEFICIAL OWNER:** Enter name as follows: Last, First, Middle.

**Line 2. U.S. TAXPAYER IDENTIFYING NUMBER:** Enter your Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN).

*Please note that you are required to furnish a U.S. taxpayer identification number on the Form 8233. (If you have applied for a U.S. taxpayer identification number but have not yet received it, you must attach a copy of a completed Application for IRS Individual Taxpayer Identification Number (Form W-7) or Application for a Social Security Card (Form SS-5) showing that a number has been applied for.)*

**Line 3. FOREIGN TAX IDENTIFYING NUMBER:** Enter your foreign taxpayer identification number, if any. For example, if you are a resident of Canada, enter your *Social Insurance Number*.

**Line 4. PERMANENT RESIDENCE ADDRESS:** Enter your permanent residence address in the country of permanent residence.

**Line 5. ADDRESS IN THE U.S.:** Enter your U.S. mailing address. (If you live in the U.S.; otherwise, enter your mailing address only if different than the permanent residence address.)

**Line 6. U. S. VISA TYPE:** Enter your U.S. visa type. For example, F-1, J-1, H-1, etc.

*Please note that spouses and dependents admitted on secondary visas (F-2, J-2, H-2, etc.) are not usually eligible to claim the same tax treaty benefits as the primary visa holder.*

**Line 7a. COUNTRY ISSUING PASSPORT:** Enter the name of the country issuing your passport.

**Line 7b. PASSPORT NUMBER:** Enter your passport number. The number is generally found on the "picture" page of the passport.

**Line 8. DATE OF ENTRY INTO THE U.S.:** Enter the date of entry that pertains to your current nonimmigrant status. For example, enter the date of arrival shown on your current Immigration and Naturalization Service (INS) Form I-94, Arrival-Departure Record. Please note that if you are claiming a tax treaty benefit that is determined by more than one date of arrival, you should enter the earlier date of arrival. Certain tax treaty articles also take into consideration the time spent in the U.S. as a student. The Instructions for Form 8233 contain additional information regarding the entry date.

**\*\* Line 9a. CURRENT NONIMMIGRANT STATUS:** Enter your current nonimmigrant status. This information can generally be found on Form I-94, or Forms I-20 (F status), DS-2019 (J status), or I-797 (H-1B status).

\*Exhibit C (Cont'd.)

**Line 9b. DATE YOUR CURRENT NONIMMIGRANT STATUS EXPIRES:** Enter the date your current nonimmigrant status expires.

**Line 10. CLAIMING A TAX TREATY WITHHOLDING EXEMPTION FOR COMPENSATION FOR PERSONAL SERVICES, CHECK BOX:** If you are a foreign student, trainee, professor/teacher, or researcher you must check this box. Additionally, you must attach the required tax treaty statement to the Form 8233, obtainable from your department or the Accounting Office.

## Part II. Claim for Tax Treaty Withholding Exemption and/or Personal Exemption Amount

**Line 11. COMPENSATION FOR INDEPENDENT (AND CERTAIN DEPENDENT) PERSONAL SERVICES:**

- a. Description of personal services you are providing: Enter a description of the personal service to be provided. The following are acceptable examples:
  - A nonresident alien student may enter "part-time library assistant" or "teaching one chemistry course per semester to undergraduate students."
  - A nonresident alien professor or teacher may enter "teaching at ABC University."
  - A nonresident alien researcher may enter "research at ABC University's school for liquid crystal research."
- b. Total compensation you expect to be paid in the current calendar year: (e.g., Enter the total amount of compensation.

**LINE 12. IF COMPENSATION IS EXEMPT FROM WITHHOLDING BASED ON A TAX TREATY BENEFIT, PROVIDE:**

- a. **TAX TREATY AND TREATY ARTICLE:** Enter the specific tax treaty country and treaty article number on which you are basing your claim for exemption from withholding tax. For example, U.S./United Kingdom income tax treaty, Article 20.
- b. **TOTAL COMPENSATION LISTED ON LINE 11b ABOVE THAT IS EXEMPT FROM TAX UNDER THIS TREATY:** Enter the amount of compensation exempt from tax under the tax treaty. If all income is exempt write "All."
- c. **COUNTRY OF PERMANENT RESIDENCE:** Enter the country of permanent residence.

\*\*\*

**Line 13 A THROUGH C.** This section pertains to individuals claiming exemption for non-compensatory scholarship or fellowship income and who also receive compensation for personal services from the same withholding agent. *You must check with your local Accounting Office prior to completing this section.*

**Line 14. SUFFICIENT FACTS TO JUSTIFY THE EXEMPTION FROM WITHHOLDING CLAIMED ON LINE 12 AND/OR LINE 13:** Provide any additional information, if applicable.

Please note lines 15, 16, 17, and 18 apply to independent contractors. Individuals who are performing services as employees should leave these lines blank.

**Line 15 PERSONAL EXEMPTIONS:** As an Independent contractor who wishes to claim personal exemptions you may enter the total number of personal exemptions to which you are entitled to on this line.

\*\* If the individual is performing personal services as an employee, enter "1" or leave blank.

**Line 16. DAYS OF PRESENCE:** Enter the number of days you will be performing independent personal services in U.S. during the calendar year.

**Line 17. DAILY PERSONAL EXEMPTION:** Enter the prorated daily personal exemption amount for the current calendar year. For example, the personal exemption amount for 2006 is \$3,300; therefore, the daily personal amount is \$12.69.

**Line 18. TOTAL PERSON EXEMPTION AMOUNT CLAIMED:** Multiply line 16 by line 17 to determine the total personal exemption amount claimed.

### Part III. Certification

Sign and date the form.

### Part IV. Withholding Agent Acceptance and Certification

The withholding agent must review the form for completeness, accuracy, and eligibility for the exemption. The withholding agent must also sign and date the form.

## Exhibit C (Cont'd.)

## Instructions for Form 8233 (Rev. December 2005)



Department of the Treasury  
Internal Revenue Service

### Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual

Section references are to the Internal Revenue Code unless otherwise noted.

#### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

*Caution:* If you are a "resident of a treaty country," you must know the terms of the tax treaty between the United States and the treaty country to properly complete Form 8233.

#### Purpose of Form

In general, section 1441 requires 30% Federal income tax withholding on compensation for independent personal services (defined on this page). Sections 1441, 3401, and 3402 require withholding, sometimes at 30% and sometimes at graduated rates, on compensation for dependent personal services (defined on beginning on this page). However, some payments may be exempt from withholding because of a tax treaty or the personal exemption amount. Complete and give Form 8233 to your withholding agent if some or all of your compensation is exempt from withholding.

You can use Form 8233 to claim a tax treaty withholding exemption for noncompensatory scholarship or fellowship income only if you are also claiming a tax treaty withholding exemption for compensation for personal services (including compensatory scholarship or fellowship income) received from the same withholding agent.

*Caution: Do not use Form 8233 if you have an office in the United States regularly available to you for performing personal services.*

**Additional Information.** You can get the complete text of most U.S. Tax Treaties at [www.irs.gov](http://www.irs.gov). Technical explanations for many of those treaties are also available at that site. Also, see **Pub. 901, U.S. Tax Treaties**, for a quick reference guide to the provisions of U.S. tax treaties. You can get any of the forms or publications referred to in these instructions by calling 1-800-TAX-FORM (1-800-829-3676) or by downloading them from the IRS Web Site at <http://www.irs.gov>

#### Giving Form 8233 to the Withholding Agent

You must complete Form 8233:

- For each tax year (be sure to specify the tax year in the space provided above Part I of the form),
- For each withholding agent, and
- For each type of income. However, you may use one Form 8233 to claim a tax treaty withholding exemption for **both** compensation for personal services

(fellowship income) and noncompensatory scholarship or fellowship income **received from the same withholding agent.**

**Example.** A nonresident alien is primarily present in the United States as a professor, but also is occasionally invited to lecture at another educational institution. These lectures are not connected with his teaching obligations but are in the nature of self-employment. For each tax year, the professor must complete two Forms 8233 and give one to each withholding agent to claim tax treaty benefits on the separate items of income.

#### Definitions

##### Nonresident Alien

If you are an alien individual (that is, an individual who is not a U.S. citizen), specific rules apply to determine if you are a resident alien or a nonresident alien for tax purposes. Generally, you are a **resident alien** if you meet either the "green card test" or the "substantial presence test" for the calendar year. Any person not meeting either test is generally a **nonresident alien**. Additionally, an alien individual who qualifies as a "resident of a treaty country" (defined below) or a resident of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa is a nonresident alien individual.

For more information on the tests used to determine resident alien or nonresident alien status, see **Pub. 519, U.S. Tax Guide for Aliens**.

**Note:** Even though a nonresident alien individual married to a U.S. citizen or resident alien may choose to be treated as a resident alien for certain purposes (for example, filing a joint income tax return), such individual is still treated as a nonresident alien for withholding tax purposes on all income except wages.

##### U.S. Person

For purposes of this form, a U.S. person is a U.S. citizen or resident alien.

##### Tax Treaty Withholding Exemption

This term refers to an exemption from withholding permitted by IRS regulations under section 1441 that is based on a tax treaty benefit. See **Resident of a Treaty Country** below for requirements for claiming a tax treaty benefit on this form.

See the instructions for line 4 on page 3 for

Additional information for determining residence for purposes of claiming a tax treaty withholding exemption on this form.

##### Resident of a Treaty Country

An alien individual may claim to be a resident of a treaty country if he or she qualifies as a resident of that country under the terms of the residency article of the tax treaty between the United States and that country. See **Nonresident Alien** earlier.

A nonresident alien may claim a tax treaty benefit on this form **only if** that individual is the beneficial owner of the income and meets the residency requirement and all other requirements for benefits under the terms of the tax treaty.

##### Compensation for Independent Personal Services

Independent personal services are services performed as an independent contractor in the United States by a nonresident alien who is self-employed rather than an employee. Compensation for such services includes payments for contract labor; payments for professional services, such as fees to an attorney, physician, or accountant, if the payments are made directly to the person performing the services; consulting fees; honoraria paid to visiting professors, teachers, researchers, scientists, and prominent speakers; and generally, payments for performances by public entertainers.

Public entertainers. Special restrictions on exemption from or reduction of withholding apply to nonresident alien public entertainers (such as actors, musicians, artists, and athletes). Generally, such individuals are subject to 30% withholding from gross income paid for personal services performed unless a reduced rate of withholding under a withholding agreement prepared in accordance with Rev. Proc. 89-47, 1989-2 C.B. 598, has been approved by the IRS. In addition, many tax treaties contain separate articles that apply to public entertainers. If present, these articles take precedence over the "independent personal services" and "dependent personal services" articles of the treaties.

(including compensatory scholarship or

### Required Withholding Form

For compensation you receive for independent personal services, complete Form 8233 to claim a tax treaty withholding exemption for part or all of that income and/or to claim the daily personal exemption amount.

### Compensation for Dependent Personal Services

Dependent personal services are services performed as an employee in the United States by a nonresident alien. Dependent personal services include compensatory scholarship or fellowship income (see definition later). Compensation for such services includes payments for wages, salaries, fees, bonuses, commissions, and similar designations for amounts paid to an employee.

### Required Withholding Form(s)

Complete Form 8233 for compensation you receive for dependent personal services **only if** you are claiming a tax treaty withholding exemption for part or all of that income. **Do not** use Form 8233 to claim the daily personal exemption amount. For compensation for which you are not claiming a tax treaty withholding exemption, use Form W-4 Employees' Withholding Allowance Certificate.

### Completing Form W-4. You should complete Form W-4 as follows:

**Line 2.** You are required to enter a Social security number (SSN) on line 2 of Form W-4. If you do not have an SSN, you must apply for one on Form SS-5, Application for a Social Security Card. You may get Form SS-5 from a Social Security Administration (SSA) Office. Fill in Form SS-5 and return it to the SSA.

*You cannot enter an individual taxpayer identification number (ITIN) on line 2 of Form W-4.*

**Line 3.** Check the single box regardless of your actual marital status.

**Line 5.** You should generally claim one withholding allowance. However, if you are a resident of Canada, Mexico, or the Republic of (South) Korea; a student from India; or a U.S. national; you may be able to claim additional withholding allowances for your spouse and children. See Pub. 519 for more information.

If you are completing Form W-4 for more than one withholding agent (for example, you have more than one employer), figure the total number of allowances you are entitled to claim (see the previous paragraph) and claim no more than that amount on all Forms W-4 combined. Your withholding usually will be most accurate when all allowances are claimed on the Form W-4 for the highest-paying job and zero allowances are claimed on the others.

**Line 6.** Write "nonresident alien" or "NRA" above the dotted line on line 6. If you would like to have an additional amount withheld, enter the amount on line 6.

**Line 7.** Do not claim that you are exempt from withholding on line 7 of Form W-4 (even if you

### Compensatory Scholarship or Fellowship Income

In general, scholarship or fellowship income is compensatory to the extent it represents payment for past, present, or future services (for example, teaching, research, etc.) performed by a nonresident alien as an employee **and** the performance of those services is a condition for receiving the scholarship or fellowship (or tuition reduction).

**Example.** XYZ University awards a scholarship to N, a nonresident alien student. The only condition of the scholarship is that N attends classes and maintains a minimum level of academic performance. The scholarship income is **not** compensatory because N is not required to perform services as an employee as a condition for receiving the scholarship.

### Required Withholding Form(s)

Compensatory scholarship or fellowship income is considered to be dependent personal services income. Therefore, complete Form 8233 for this income **only if** you are claiming a tax treaty withholding exemption for part or all of that income. **Do not** complete Form 8233 to claim the daily personal exemption amount.

For any part of this compensatory income for which you are not claiming a tax treaty withholding exemption, use Form W-4. See **Completing Form W-4** earlier.

### Noncompensatory Scholarship or Fellowship Income

Noncompensatory scholarship or fellowship income is scholarship or fellowship income that is **not** compensatory scholarship or fellowship income (defined earlier).

The taxable portion of noncompensatory scholarship or fellowship income (defined below) paid to a nonresident alien is generally subject to withholding at a rate of 30% (the rate is generally 14% in the case of a nonresident alien temporarily present in the United States under an "F," "J," "M," or "Q" visa).

### Taxable portion of noncompensatory scholarship or fellowship income.

If you were a degree candidate, the amount of this type of income that you used for expenses other than tuition and course-related expenses (fees, books, supplies, and equipment) is generally taxable. For example, amounts used for room, board, and travel are generally taxable. If you were not a degree candidate, the full amount of the scholarship or fellowship income is generally taxable.

### Required Withholding Form

You should generally complete Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding, to claim a tax treaty withholding exemption for this type of income. **No Form W-8BEN is required unless a treaty benefit is being claimed.**

**Exception** If you are receiving both compensation for personal services (including compensatory scholarship or fellowship income) and noncompensatory scholarship or fellowship income **from the same withholding agent**, you may use one Form 8233 for both types of income. However, this exception applies only if you are

### Alternate withholding election.

A withholding agent may elect to withhold on the taxable portion of noncompensatory scholarship or fellowship income of a nonresident alien temporarily present in the United States under an "F," "J," "M," or "Q" visa as if it were compensatory scholarship or fellowship income (provided the nonresident alien is not claiming treaty benefits with respect to that income). The withholding agent makes this election by requesting that the nonresident alien complete Form W-4 using the instructions in Rev. Proc. 88-24, 1988-1 C.B. 800.

### Withholding Agent

Any person, U.S. or foreign, that has control, receipt, or custody of an amount subject to withholding or who can disburse or make payments of an amount subject to withholding is a withholding agent. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity, including (but not limited to) any foreign intermediary, foreign partnership, and U.S. branches of certain foreign banks and insurance companies. Generally, the person who pays (or causes to be paid) the amount subject to withholding to the nonresident alien individual (or to his or her agent) must withhold.

### Beneficial Owner

For payments other than those for which a reduced rate of withholding is claimed under an income tax treaty, the beneficial owner of income is generally the person who is required under U.S. tax principles to include the income in gross income on a tax return. A person is not a beneficial owner of income, however, to the extent that person is receiving the income as a nominee, agent, or custodian, or to the extent the person is a conduit whose participation in a transaction is disregarded. In the case of amounts paid that do not constitute income, beneficial ownership is determined as if the payment were income.

### Avoid Common Errors

To ensure that your Form 8233 is promptly accepted, be sure that you:

- Answer all applicable questions completely.
- Specify the tax year for which this form will be effective in the space provided above Part I of the form.
- Enter your complete name, addresses, and identifying number(s) in Part I.
- Have attached the required statement described in the line 10 instructions if you are a foreign student, trainee, professor/teacher, or researcher.
- Are not trying to claim tax treaty benefits for a country with which the United States does not have a ratified tax treaty.
- Are not trying to claim tax treaty benefits that do not exist in your treaty.
- Complete lines 11 through 14 in sufficient detail to allow the IRS to determine the tax treaty benefit you are claiming.
- Claim the proper number of personal exemptions on line 15.
- Complete the required certification in

meet both of the conditions listed on that line).

claiming a tax treaty withholding exemption for **both** types of income.

Part III.

## \*Exhibit C (Cont'd.)

### Specific Instructions

#### Part I

##### Line 2

You are required to furnish a U.S. taxpayer identifying number on this form. You are generally required to enter your social security number (SSN) on line 2. To apply for an SSN, get Form SS-5 from a Social Security Administration (SSA) office. Fill in Form SS-5 and return it to the SSA.

If you do not have an SSN and are not eligible to get one, you must get an individual taxpayer identification number (ITIN). **To apply for an ITIN, file Form W-7, Application for IRS Individual Taxpayer Identification Number, with the IRS.** Generally, you apply for an ITIN when you file your tax return for which the ITIN is needed. However, if the reason your ITIN request is because you need to provide Form 8233 to the withholding agent, you must file Form W-7 and provide proof that you are not eligible for an SSN (your SS-5 was rejected by the SSA) and include a Form 8233. It usually takes about 4-6 weeks to get an ITIN. For more information on requesting an ITIN, see the Form W-7 instructions.

If you have applied for a U.S. taxpayer identifying number but have not yet received it, you may attach a copy of a completed Form W-7 or SS-5 showing that a number has been applied for.

*An ITIN is for tax use only. It does not entitle you to social security benefits or change your employment or immigration status under U.S. law.*

##### Line 3

If your country of residence for tax purposes has issued you a tax identifying number, enter it here. For example, if you are a resident of Canada, enter your Social Insurance Number.

##### Line 4

Your permanent residence address is the address in the country where you claim to be a resident for purposes of that country's income tax. If you are completing Form 8233 to claim a tax treaty withholding exemption, you must determine your residency in the manner required by the treaty. **Do not** show the address of a financial institution, a post office box, or an address used solely for mailing purposes. If you are an individual who does not have a tax residence in any country, your permanent residence is where you normally reside.

Most tax treaties that provide for a tax treaty withholding exemption require that the recipient be a resident of the treaty country at the time of, or immediately prior to, entry into the United States. Thus, a student or researcher may generally claim the withholding exemption even if he or she no longer has a permanent address in the treaty country after entry into the United States. If this is the case, you may provide a U.S. address on line 4 and still be eligible for the withholding exemption if all other conditions required by the tax treaty are met. You must also identify on line 12a and/or line 13b the tax treaty country of which you were a resident at the time of, or immediately prior

##### Line 6

Enter your U.S. visa type. For example, foreign students are usually granted an "F-1" visa. Foreign professors, teachers, or researchers are usually granted a "J-1" visa. Business/vocational trainees are usually granted an "M-1" visa; however, some persons granted a "J-1" visa may also be considered business/vocational trainees (for example, a person admitted to complete a postgraduate residency in medicine).

**Note:** *If you do not have, or do not require, a visa, write "None." Spouses and dependents admitted on secondary visas (for example, "F-2," "J-2," "H-4," and "O-3" visas) are not usually eligible to claim the same treaty benefits as the primary visa holder.*

##### Line 8

You are generally required to enter your date of entry into the United States that pertains to your current nonimmigrant status. For example, enter the date of arrival shown on your current immigration **Form I-94, Arrival-Departure Record.**

**Exception.** If you are claiming a tax treaty benefit that is determined by reference to more than one date of arrival, enter the earlier date of arrival.

For example, you are currently claiming treaty benefits (as a teacher or a researcher) under article 15 of the tax treaty between the United States and Norway. You previously claimed treaty benefits (as a student) under article 16(1) of that treaty. Under article 16(4) of that treaty, the combination of exemptions under articles 15 and 16(1) may not extend beyond 5 tax years from the date you entered the United States. If article 16(4) of that treaty applies, enter on line 8 the date you entered the United States as a student.

##### Line 9a

Enter your current nonimmigrant status. For example, enter your current nonimmigrant status shown on your current Immigration Form I-94.

##### Line 9b

Enter the date your current nonimmigrant status expires. For example, you may enter the date of expiration shown on your current Immigration Form I-94. Enter "DS" on line 9b if the date of expiration is based on "duration of status."

##### Line 10

Nonresident alien students, professors/teachers, and researchers using Form 8233 to claim a tax treaty withholding exemption for compensation for personal services **must** attach to Form 8233 a statement. **The format and contents of the required statements are shown in Appendix A and Appendix B in Pub. 519.**

#### Part II

##### Line 11a

For compensation for independent personal services, examples of acceptable descriptions to enter on this line include: "Consulting contract to design software" or "give three lectures at XYZ University."

For compensation for dependent

- A nonresident alien student may enter "part-time library assistant," "part-time restaurant worker," or "teaching one chemistry course per semester to undergraduate students."
- A nonresident alien professor or teacher may enter "teaching at ABC University."
- A nonresident alien researcher may enter "research at ABC University's school for liquid crystal research."
- A nonresident alien business/vocational trainee may enter "neurosurgical residency at ABC Hospital" or "one-year internship in hydraulic engineering at XYZ Corporation."

##### Line 11b

Enter the total amount of compensation for personal services you will receive from this withholding agent during the tax year. Enter an estimated amount if you do not know the exact amount.

##### Line 12a

Enter the specific treaty **and article** on which you are basing your claim for exemption from withholding (for example, "U.S./Germany tax treaty, Article 20(4)").

##### Line 12b

If all income received for the services performed to which this Form 8233 applies is exempt, write "All." If only part is exempt, enter the exact dollar amount that is exempt from withholding.

##### Line 12c

Generally, you may claim a withholding exemption based on a U.S. tax treaty with the country in which you claim permanent (or indefinite) residence. This is the foreign country in which you live most of the time. It is not necessarily the country of your citizenship. For example, you are a citizen of Pakistan but maintain your home in England. You **cannot** claim a withholding exemption based on the U.S./Pakistan tax treaty. Any withholding exemption you claim must be based on the U.S./United Kingdom tax treaty.

##### Line 13b

Enter the specific treaty **and article** on which you are basing your claim for exemption from withholding (for example, "U.S./Germany tax treaty, Article 20(3)").

##### Line 14

Provide sufficient facts to justify the exemption from withholding claimed on line 12 and/or line 13. Be sure you provide enough details to allow the IRS to determine the tax treaty benefit you are claiming.

#### Lines 15 through 18 (for certain independent personal services)

**Do not** complete lines 15 through 18 if you are claiming on line 12b that **all** of the compensation you are receiving for independent personal services is exempt

\*Change 2/28/09

to, your entry into the United States.

personal services, examples of acceptable descriptions to enter on this line include:

from withholding.

### Line 15

For compensation for independent personal services for which an exemption from withholding is not available, 30% must be withheld from that compensation after subtracting the value of one personal exemption. You will generally enter "1" on line 15; however, if the exception below applies to you, enter the total number of personal exemptions you are entitled to on line 15.

**Exception.** If you are a resident of Canada, Mexico, or the Republic of (South) Korea; a student from India; or a U.S. national; you may be able to claim additional personal exemptions for your spouse and children. For 2005, the new US-Japan treaty does not allow a deduction for additional personal exemptions unless you choose to have the old treaty apply in 2005. See Pub. 519 for more information.

### Lines 16 and 17

Each allowable personal exemption must be prorated for the number of days during the tax year you will perform the personal services in the United States. Enter the number of days on line 16 that pertain to the **independent** personal services described in line 11a. To figure the daily personal exemption amount to enter on line 17, divide the personal exemption amount for the tax year (\$3,200 for 2005) by 365 (366 for a leap year) and multiply the result by the amount you entered on line 15. For example, if you are entitled to one personal exemption for 2005, enter \$8.77 (that is,  $\$3,200 / 365 \text{ days} = \$8.77 \times 1 \text{ personal exemption} = \$8.77$ ) on line 17.

## Part IV

### Withholding Agent's Responsibilities

When the nonresident alien individual gives you Form 8233, review it to see if you are satisfied that the exemption from withholding is warranted. If you are satisfied, based on the facts presented, complete and sign the certification in Part IV.

You will need three copies of a completed Form 8233. Within 5 days of your acceptance, forward one copy to:  
Internal Revenue Service  
International Section  
P.O. Box 920  
Bensalem, PA 19020-8518

Give one copy of the completed Form 8233 to the nonresident alien individual. Keep a copy for your records. Each copy of Form 8233 must include any attachments submitted by the nonresident alien individual.

The exemption from withholding is effective for payments made retroactive to the date of the first payment covered by Form 8233, even though you must wait at least 10 days after you have properly mailed Form 8233 to the IRS to see whether the IRS has any objections to the Form 8233.

You must **not** accept Form 8233, and you must withhold, if either of the following applies:

- You know, or have reason to know, that any of the facts or statements on Form 8233 may be false **or**
- You know, or have reason to know, that the nonresident alien's eligibility for the exemption from withholding cannot be readily determined (for example, you know the nonresident alien has a fixed base or permanent establishment in the United States).

If you accept Form 8233 and later find that either of the situations described above applies, you must promptly notify the IRS (by writing to the above address) and you must begin withholding on any amounts not yet paid. Also, if you are notified by the IRS that the nonresident alien's eligibility for the exemption from withholding is in doubt or that the nonresident alien is not eligible for exemption from withholding, you must begin withholding immediately. See Regulations section 1.1441-4(b)(2)(iii) for examples illustrating these rules.

If you submit an incorrect Form 8233, you will be notified by the IRS that the form submitted is not acceptable and that you must begin withholding immediately.

Examples of incorrect Forms 8233 Include:

- Any Form 8233 that claims a tax treaty benefit that does not exist or is obviously false.
- Any Form 8233 that has not been completed in sufficient detail to allow determination of the correctness of the tax treaty benefit or exemption claimed.

### Signature

You or your authorized agent must sign and date Form 8233. See Regulations section 1.1441-7(c) for information about authorized agents.

### Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you want to receive exemption from withholding on compensation for independent (and certain dependent) personal services, you are required to give us the information.

We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping**, 1 hr. 5 min.;  
**Learning about the law or the form**, 31 min.; **Preparing and sending the form to IRS**, 57 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SDP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. **Do not** send the tax form to this address. Instead, give it to your withholding agent.

EXHIBIT D

UNIVERSITY OF CALIFORNIA, \_\_\_\_\_  
Accounting Office

WITHHOLDING TAX STATUS--NONEMPLOYEE

Date \_\_\_\_\_

The information you furnished this office has been reviewed and your Federal withholding tax status at the University of California will be determined based on the statement checked below, for the period from \_\_\_\_\_, 20\_\_\_\_ to \_\_\_\_\_, 20\_\_\_\_ (not to exceed one calendar year).

- You are a resident alien receiving compensation for independent personal services. This payment is not subject to Federal income tax withholding, but is subject to information reporting (to the IRS).
- You are a nonresident alien who is temporarily in the United States under an F (Student), J (Exchange Visitor), O (Extraordinary Ability) or P (Performing) visa. Compensation paid to you is subject to Federal Income tax withholding
- At the same rate as a single United States citizen with one personal exemption.
- At the same rate as a United States citizen with allowable personal exemptions, as a qualifying resident of Canada, Mexico, South Korea, or a student from India.
- \*\*\*
- You are a nonresident alien and you have filed IRS Form 8233 claiming benefits under Article \_\_\_\_\_ of the Income Tax Convention between the United States and \_\_\_\_\_ . Compensation paid to you, or some portion thereof, will be exempt from Federal income tax withholding.
- You are a nonresident alien and you have filed IRS Form 8233 claiming the personal exemption amount prior to application of the 30% tax rate. Your Federal income tax withholding will be reduced accordingly.



- You are a nonresident alien receiving compensation for independent personal services. This payment is subject to withholding at a flat rate of 30%.
- Tax will be withheld in accordance with your agreement with the IRS.

Regardless of your Federal income tax status, you are subject to California State income tax on all income earned in this state. To avoid the possibility of tax penalties at a later date, it is recommended that you contact the State of California Franchise Tax Board for information on State income tax requirements. Contact the California Franchise Tax Board at:

World Wide Web address: <http://www.ftb.ca.gov/>  
Telephone: (800) 852-5711

EXHIBIT EUNIVERSITY OF CALIFORNIA, \_\_\_\_\_  
Accounting Office

## PROVISIONAL TAX STATEMENT INSTRUCTIONS

In accordance with your request, enclosed is a provisional tax statement covering payments made to you from January 1 of the current year to the date of your departure.

In order to obtain a tax clearance from the Internal Revenue Service, it will be necessary for you to appear in person at an IRS district office.

A separate clearance is needed for each departing alien. If both husband and wife are aliens and are leaving the country, both must appear even though a joint tax return is filed.

We suggest that you obtain your "sailing Permit" at least two weeks before departure, but not earlier than 30 days before departure. Do not wait until the last minute, as there may be some unexpected problems to resolve.

Obtaining a "sailing permit" will be easier if you take some of the following papers and documents related to your income and stay in the United States to the Internal Revenue Office:

1. Passport, and details of departure.
2. U.S. re-entry permit, if in your possession.
3. Copies of U.S. income tax returns filed for the two previous years, together with receipts and records, such as cancelled checks and any other documents that would indicate items claimed on the tax returns.
4. Provisional income tax statement for the current year from each employer/institution for which you worked or from which you received payments. The statements should show amounts paid and tax withheld from January of the current year to the date of departure.
5. If you are a nonresident alien, a copy of any form used to claim or authorize reduction in or exemption from income tax withholding, e.g., the UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding form (employee with tax treaty benefits), or IRS Form 8233, IRS withholding agreement, or IRS final payment letter (nonemployee).



## General Instructions

### Purpose of Form

Use Form W-7 to apply for an IRS individual taxpayer identification number (ITIN). An ITIN is a nine-digit number issued by the U.S. Internal Revenue Service (IRS) to individuals who are required for U.S. tax purposes to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain, a social security number (SSN).

The ITIN is for federal tax purposes only. It does not entitle you to social security benefits and does not change your immigration status or your right to work in the United States. Also, individuals filing tax returns using an ITIN are not eligible for the earned income credit (EIC).

SSNs. Do not complete Form W-7 if you have an SSN or you are eligible to obtain an SSN. You are eligible for an SSN if you are a U.S. citizen or if you have been admitted by the United States for permanent residence or U.S. employment.

To obtain an SSN, see Form SS-5, Application for a Social Security Card. To get Form SS-5 or to find out if you are eligible to obtain an SSN, go to [www.socialsecurity.gov/locator](http://www.socialsecurity.gov/locator) or contact a Social Security Administration (SSA) office.

If you have an application for an SSN pending, do not file Form W-7. Complete Form W-7 only if the SSA notifies you that an SSN cannot be issued.

If the SSA will not issue you an SSN, a letter of denial must be obtained and attached to your Form W-7. This applies whether you are attaching your federal tax return or requesting an ITIN under one of the exceptions. However, see Exception 2 in the Exceptions Tables that begin on page 6 for additional information for recipients of honoraria payments, students, researchers, and professors.

### Who Must Apply

Any individual who is not eligible to obtain an SSN but who must furnish a taxpayer identification number must apply for an ITIN on Form W-7. Examples include the following.

- A nonresident alien individual eligible to obtain the benefit of reduced withholding under an income tax treaty. See Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.
- A nonresident alien individual not eligible for an SSN who is required to file a U.S. tax return or who is filing a U.S. tax return only to claim a refund.
- A nonresident alien individual not eligible for an SSN who elects to file a joint U.S. tax return with a spouse who is a U.S. citizen or resident alien.
- A U.S. resident alien (based on the substantial presence test) who files a U.S. tax return but who is not eligible for an SSN. For information about the substantial presence test, see Pub. 519, U.S. Tax Guide for Aliens.
- An alien spouse claimed as an exemption on a U.S. tax return who is not eligible to obtain an SSN.
- An alien individual eligible to be claimed as a dependent on a U.S. tax return but who is not eligible to obtain an SSN. To determine if an alien individual is eligible to be claimed as a dependent on a U.S. tax return, see Pub. 501, Exemptions, Standard Deduction, and Filing Information, and Pub. 519.
- A nonresident alien student, professor, or researcher who is required to file a U.S. tax return but who is not eligible for an SSN, or who is claiming an exception to the tax return filing requirement.
- A dependent/spouse of a nonresident alien holding a U.S. visa who is not eligible for an SSN.

ITIN Not Needed for Forms 4868, 1040-ES, or 1040-ES(NR). If you are filing an application for an extension of time to file using Form 4868, or making an estimated tax payment using Form 1040-ES or Form 1040-ES(NR), do not file Form W-7 with those forms. Enter "ITIN TO BE REQUESTED" wherever your SSN or ITIN is requested. An ITIN will be issued only after you file a tax return and meet all other requirements.

## Additional Information

Publications. In addition to Publications 501, 515, and 519 mentioned earlier, see Publication 1915, Understanding Your IRS Individual Taxpayer Identification Number (ITIN), for more information.

These publications are available free from the IRS. To order the publications, call 1-800-TAX-FORM (1-800-829-3676) if you are in the United States. If you have a foreign address, write to:

National Distribution Center  
P.O. Box 8903  
Bloomington, IL 61702-8903

You can also get these publications on the IRS website at [www.irs.gov](http://www.irs.gov).

Telephone help. If, after reading these instructions and our free publications, you are not sure how to complete your application or have additional questions, call 1-800-829-1040 if you are in the United States. If you are outside the United States, call 215-516-2000 (not a toll-free number) or contact our overseas offices in Frankfurt, London, or Paris.

## How To Apply

Your application must include all of the following.

1. Your completed Form W-7.

Note. If you submit a Form W-7, all ensuing ITIN notices and correspondence that you receive will be in English. If you prefer to receive them in Spanish, please submit Form W-7(SP).

2. Your original, completed tax return(s) for which the ITIN is needed. Attach Form W-7 to the front of your tax return. If you are applying for more than one ITIN for the same tax return (such as for a spouse or dependent(s)), attach all Forms W-7 to the same tax return. After your Form W-7 has been processed, the IRS will assign an ITIN to the return and process the return.



*There are exceptions to the requirement to include a U.S. tax return. If you claim one of these exceptions, you must submit the documentation required in lieu of a tax return. See the Exceptions Tables beginning on page 6.*

3. The original documents, or certified or notarized copies of documents, that substantiate the information provided on the Form W-7. The supporting documentation must be consistent with the applicant's information provided on Form W-7. For example, the name, date of birth, and country(ies) of citizenship must be the same as on Form W-7, lines 1a, 4, and 6a.



*To avoid any loss of your documents, it is suggested you do not submit the original documentation.*

You can submit copies of original documents if you do any of the following.

- Have the copies certified by the issuing agency or official custodian of the original record.
- Have the copies notarized by a U.S. notary public legally authorized within his or her local jurisdiction to certify that the document is a true copy of the original. To do this, the notary must see the valid, unaltered original document and verify that the copy conforms to the original. U.S. notaries public are available at U.S. embassies and certain consulates worldwide.
- Have the copies notarized by a foreign notary. However, foreign notaries are only acceptable as outlined by the Hague Convention. The Hague Convention provides for the simplified certification of public (including notarized) documents to be used in countries that have joined the Convention. A certification will be issued in the form of an "apostille," which will be attached to the copy of the document.

Note. The apostille must stay attached to the copy of the document when it is sent to the IRS.

\*EXHIBIT F (Cont'd.)

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Original documents you submit will be returned to you at the mailing address shown on your Form W-7. You do not need to provide a return envelope. If your original documents are not returned within 60 days, you can call the IRS (see Telephone help on page 2).

Copies of documents will not be returned. If you will need your documentation for any purpose within 90 days of submitting your ITIN application, you may wish to apply in person at an IRS Taxpayer Assistance Center. See Where To Apply on this page. Your documents will be reviewed by an IRS employee in this office and returned to you immediately.

If you submit an original valid passport (or a notarized or certified copy of a valid passport), you do not need to submit any other documents. Otherwise, you must submit at least two of the documents listed below. The documents must be current, verify your identity (that is, contain your name), and support your claim of foreign status. At least one document must contain your photograph, but a photograph is not required if documents are submitted for a dependent under age 14 (under age 18 if a student). Do not attach expired documents.

Note. Documentation submitted for a dependent should include a civil birth certificate (unless a passport is submitted).

Supporting Documentation	Can be used to establish	
	Foreign status	Identity
Passport (the only stand-alone document)	X	X
U.S. Citizenship and Immigration Services (USCIS) photo identification	X	X
Visa issued by U.S. Department of State	X	X
U.S. driver's license		X
U.S. military identification card		X
Foreign driver's license		X
Foreign military identification card	X	X
National identification card (must be current, and contain name, photograph, address, date of birth, and expiration date)	X	X
U.S. state identification card		X
Foreign voter's registration card	X	X
Civil birth certificate	X*	X
Medical Records (valid only for dependents under age 14 (under age 18 if a student))	X*	X
School Records (valid only for dependents under age 14 (under age 18 if a student))	X*	X

\* Can be used to establish foreign status only if they are foreign documents.  
Keep a copy of your application for your records.

**When To Apply**

Complete and attach Form W-7 when you file the tax return for which the ITIN is needed. However, if you meet one of the exceptions described later under *h*. Other., complete and submit Form W-7 as soon as possible after you determine you are covered by that exception.

Allow 6 weeks for the IRS to notify you of your ITIN (8-10 weeks if submitted during peak processing periods or if you are filing from overseas). If you have not received your ITIN or correspondence at the end of that time, you can call the IRS to find out the status of your application (see Telephone help on page 2).

**Where To Apply**

By mail. Mail Form W-7, your tax return (or other documents required by an exception), and the documentation described in item (3) under *How To Apply* on page 2 and listed in the chart above to:

Internal Revenue Service  
ITIN Operation  
P.O. Box 149342  
Austin, TX 78714-9342



Do not use the mailing address in the instructions for your tax return.

Private delivery services. If you use a private delivery service to submit your Form W-7, use the following address:

Internal Revenue Service  
Submission Processing Center  
ITIN Operation  
Mail Stop 6090-AUSC  
3651 S. Interregional, Hwy 35  
Austin, TX 78741-0000

In person. You can apply for an ITIN by bringing your completed forms and documentation to any IRS Taxpayer Assistance Center in the United States or IRS office abroad. Information on our overseas offices can be found in Publication 1915 or by visiting the IRS website at [www.irs.gov](http://www.irs.gov).

Through acceptance agent. You can also apply through an acceptance agent authorized by the IRS. An acceptance agent can help you complete and file Form W-7. To obtain a list of agents, visit the IRS website at [www.irs.gov](http://www.irs.gov) and enter "acceptance agent" in the search box at the top of the page.

**Specific Instructions**

If you are completing this form for someone else, answer the questions as they apply to that person.

**Reason For Applying**

You must check the box to indicate the reason you are completing Form W-7. If more than one box applies to you, check the box that best explains your reason for submitting Form W-7. However, if an exception applies be sure to check box *h*.

- a. Nonresident alien required to obtain an ITIN to claim tax treaty benefit. Certain nonresident aliens must obtain an ITIN to claim a tax treaty benefit even if they do not have to file a U.S. tax return. If you check this box to claim the benefits of a U.S. income tax treaty with a foreign country, also check box *h*. On the dotted line next to box *h*, enter the appropriate designation for Exception 1 or 2, whichever applies (see Exception 1 and Exception 2 under *h*. Other, later). Identify the exception by its number, alpha subsection, and category under which you are applying (for example, enter "Exception 1d-Pension Income" or "Exception 2d-Gambling Winnings"). Also, enter the name of the treaty country and treaty article number in the appropriate entry spaces below box *h* and attach the documents required under whichever exception applies. For more details on tax treaties, see Pub. 901, U.S. Tax Treaties.
- b. Nonresident alien filing a U.S. tax return. This category includes:
  - A nonresident alien who must file a U.S. tax return to report income effectively or not effectively connected with the conduct of a trade or business in the United States, and
  - A nonresident alien who is filing a U.S. tax return only to obtain a refund.
- c. U.S. resident alien (based on days present in the United States) filing a U.S. tax return. A foreign individual living in the United States who does not have permission to work from the USCIS, and is thus ineligible for an SSN, may still be required to file a U.S. tax return. These individuals must check this box.
- d. Dependent of a U.S. citizen/resident alien. This is an individual who can be claimed as a dependent on a U.S. tax return and is not eligible to obtain an SSN.

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**e. Spouse of a U.S. citizen/resident alien.** This category includes:

- A nonresident alien husband or wife who is not filing a U.S. tax return (including a joint return) and who is not eligible to obtain an SSN but who, as a spouse, is claimed as an exemption, and
- A nonresident alien electing to file a U.S. tax return jointly with a spouse who is a U.S. citizen or resident alien.

**f. Nonresident alien student, professor, or researcher** filing a U.S. tax return or claiming an exception. This is an individual who has not abandoned his or her residence in a foreign country and who is a bona fide student, professor, or researcher coming temporarily to the United States solely to attend classes at a recognized institution of education, to teach, or to perform research. If you check this box, you must complete lines 6c and 6g and provide your passport with a valid U.S. visa. If you are present in the United States on a work-related visa (F-1, J-1, or M-1), but will not be employed (that is, your presence in the United States is study related), you can choose to attach a letter from the Designated School Official or Responsible Officer instead of applying with the SSA for an SSN. The letter must clearly state that you will not be securing employment while in the United States, and your presence here is solely study related. If you check this box to claim the benefits of a U.S. income tax treaty with a foreign country, also check box h. On the dotted line next to box h, enter the appropriate designation for Exception 2, (see below). Identify the exception by its number, alpha subsection, and category under which you are applying (for example, enter "Exception 2b-Scholarship Income and claiming tax treaty benefits" or "Exception 2c-Scholarship Income"). Also, enter the name of the treaty country and the treaty article number in the appropriate entry spaces below box h (if applicable) and attach the documents required under Exception 2.

**g. Dependent/spouse of a nonresident alien holding a U.S. visa.** This is an individual who can be claimed as a dependent or a spouse on a U.S. tax return, who is unable, or not eligible, to obtain an SSN and who has entered the United States with a nonresident alien holding a U.S. visa. For example, the primary visa holder has a B-1 visa; the dependent or spouse has a B-2 visa.

**h. Other.** If the reason for your ITIN request is not described in boxes a through g, check this box. Describe in detail your reason for requesting an ITIN and attach supporting documents.

Frequently, third parties (such as banks and other financial institutions) which are subject to information reporting and withholding requirements, will request an ITIN from you to enable them to file information returns required by law. If you are requesting an ITIN for this reason, you may be able to claim one of the exceptions described below. Enter on the dotted line next to box h the exception that applies to you. Identify the exception by its number, alpha subsection (if applicable), and category under which you are applying (for example, enter "Exception 1a-Partnership Interest" or "Exception 3-Mortgage Interest"). Examples of completed Forms W-7 can be found in Publication 1915. You will not need to attach a tax return to your Form W-7. For more detailed information regarding the exception(s) that may apply to you, see the Exceptions Tables beginning on page 6.

**Note.** If box h is checked, box a or f may also be checked.

**Exception 1. Passive income—third party withholding or tax treaty benefits.** This exception may apply if you are the recipient of partnership income, interest income, annuity income, etc. that is subject to third party withholding or covered by tax treaty benefits. See the Exceptions Tables on page 6 for information on the requirements for claiming Exception 1.

Information returns applicable to Exception 1 may include the following.

- Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding
- Form 1099-INT, Interest Income
- Form 9906, Foreign Partner's Information Statement of Section 1446 Withholding Tax

**Exception 2. Other income.**

Applicants with a U.S. visa that is valid for employment should first apply for an SSN with the SSA. You are not eligible for an ITIN if you are eligible to obtain an SSN.

This exception may apply if:

1. You are claiming the benefits of a U.S. income tax treaty with a foreign country and you receive any of the following:
  - a. Wages, salary, compensation, and honoraria payments,
  - b. Scholarships, fellowships, and grants,
  - c. Gambling income, or
2. You are receiving taxable scholarship, fellowship, or grant income, but not claiming the benefits of an income tax treaty.

See the Exceptions Tables on pages 6 and 7 for information on the requirements for claiming Exception 2. Information returns applicable to Exception 2 may include Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding.

**Exception 3. Mortgage interest—third party reporting.** This exception may apply if you have a home mortgage loan on real property you own in the United States that is subject to third party reporting of mortgage interest. See the Exceptions Tables on page 6 for information on the requirements for claiming Exception 3. Information returns applicable to Exception 3 may include Form 1098, Mortgage Interest Statement.

**Exception 4. Dispositions by a foreign person of U.S. real property interest—third party withholding.** This exception may apply if you are a party to a disposition of a U.S. real property interest by a foreign person, which is generally subject to withholding by the transferee or buyer (withholding agent). See the Exceptions Tables on page 6 for information on the requirements for claiming Exception 4. Information returns applicable to Exception 4 may include the following.

- Form 8288, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests
- Form 8288-A, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests
- Form 8288-B, Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests

**Line Instructions**

Enter N/A (not applicable) on all lines that do not apply to you. Do not leave any lines blank.

**Line 1a.** Enter your legal name on line 1a as it appears on your documents. This entry should reflect your name as it will appear on a U.S. tax return.



Your ITIN will be established using this name. If you do not use this name on the U.S. tax return, the processing of the U.S. tax return may be delayed.

**Line 1b.** Enter your name as it appears on your birth certificate if it is different from your entry on line 1a.

**Line 2.** Enter your complete mailing address on line 2. This is the address the IRS will use to return your original documents and send written notification of your ITIN.

**Note.** If the U.S. Postal Service will not deliver mail to your physical location, enter the U.S. Postal Service's post office box number for your mailing address. Contact your local U.S. Post Office for more information. Do not use a post office box owned and operated by a private firm or company.

Line 3. Enter your complete foreign address in the country where you permanently or normally reside if it is different from the address on line 2. If you no longer have a permanent residence, due to your relocation to the United States, enter only the foreign country where you last resided on line 3. If you are claiming a benefit under an income tax treaty with the United States, line 3 must show the treaty country.



Do not use a post office box or an "in care of" (c/o) address instead of a street address on line 2 if you are entering just a "country" name on line 3. If you do, your application will be rejected.

Line 4. To be eligible for an ITIN, your birth country must be recognized as a foreign country by the U.S. Department of State.

Line 6a. Enter the country or countries (in the case of dual citizenship) in which you are a citizen. Enter the complete country name; do not abbreviate.

Line 6b. If your country of residence for tax purposes has issued you a tax identification number, enter that number on line 6b. For example, if you are a resident of Canada, enter your Canadian Social Insurance Number.

Line 6c. Enter only U.S. nonimmigrant visa information. Include the USCIS classification, number of the U.S. visa, and the expiration date in month/day/year format. For example, if you have a B-1/B-2 visa with the number 123456 that has an expiration date of December 31, 2010, enter "B-1/B-2," "123456," and "12/31/2010" in the entry space.

Note. If the visa has been issued under a "duration of stay" label by USCIS, enter "D/S" as the expiration date.

Line 6d. Check the box indicating the type of document(s) you are submitting for identification. You must submit documents as explained in item (3) under *How To Apply* on page 2. Enter the name of the state or country or other issuer, the identification number (if any) appearing on the document(s), the expiration date, and the date on which you entered the United States. Dates must be entered in the month/day/year format. Also, you may subsequently be required to provide a certified translation of foreign language documents.

Note. Any visa information shown on a passport must be entered on line 6c.

Line 6e. If you ever received a temporary taxpayer identification number (TIN) or an employer identification number (EIN), check the "Yes" box and complete line 6f. If you never had a temporary TIN or an EIN, or you do not know your temporary TIN, check the "No/Do not know" box.

A temporary TIN is a nine-digit number issued by the IRS to persons who file a return or make a payment without providing a TIN. You would have been issued this number if you filed a U.S. tax return and did not have a social security number. This temporary TIN will appear on any correspondence the IRS sent you concerning that return.

An EIN is a nine-digit number (for example, 12-3456789) assigned by the IRS to businesses, such as sole proprietorships.

Line 6f. If you have both a temporary TIN and an EIN, attach a separate sheet listing both. If you were issued more than one temporary TIN, attach a separate sheet listing all the temporary TINs you received.

Line 6g. If you checked reason 1, you must enter the name of the educational institution and the city and state in which it is located. You must also enter your length of stay in the United States.

If you are temporarily in the United States for business purposes, you must enter the name of the company with whom you are conducting your business and the city and state in which it is located. You must also enter your length of stay in the United States.

Signature. You must sign Form W-7. However, if the applicant is a minor under 14 years of age, a delegate (parent or court-appointed guardian) can sign for him or her. Type or print the delegate's name in the space provided and check the appropriate box that indicates his or her relationship to the applicant. If the delegate is signing as a court-appointed guardian, attach a copy of the court-appointment papers showing the legal guardianship.

If the applicant is 14 years of age or over, the applicant can sign or appoint an authorized agent to sign. The authorized agent could be the applicant's parent or another person designated by the applicant. The authorized agent must print his or her name in the space provided for the name of the delegate and attach Form 2848, Power of Attorney and Declaration of Representative.

Note. All Powers of Attorney (POAs) submitted to the IRS must be in English. Any POAs received in a foreign language will be considered invalid.

#### Acceptance Agent's Use ONLY

Enter the 8-digit office code that was issued to you by the ITIN Program Office.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Internal Revenue Code section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.

EXHIBIT F (Cont'd.)

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Exceptions Tables

Exception #1 Third Party Withholding on Passive Income		
Note. Federal tax withholding and/or information reporting must take place within the current tax year.		
Third Party Withholding on Passive Income	Persons who are eligible to claim Exception 1 include:	Documentation you must submit if you are eligible to claim Exception 1:
	1(a) Individuals who are partners of a foreign partnership that invests in the U.S. and who own assets that generate income subject to IRS information reporting and federal tax withholding requirements; or	1(a) A copy of the portion of the partnership agreement displaying the partnership's Employer Identification Number and showing that you are a partner in the partnership that is conducting business in the United States.
	1(b) Individuals who have opened an interest bearing bank deposit account that generates income which is effectively connected with their U.S. trade or business and is subject to IRS information reporting and/or federal tax withholding; or	1(b) Paperwork from the bank showing that you opened an interest bearing business account that is subject to IRS information reporting and/or federal tax withholding during the current tax year.
	1(c) Individuals who are "resident aliens" for tax purposes and have opened up an interest bearing bank deposit account that generates income subject to IRS information reporting and/or federal tax withholding; or	1(c) Paperwork from the bank stating that you are receiving distributions from a deposit account which are subject to IRS information reporting and/or federal tax withholding during the current tax year. An acknowledged (signed by the bank) copy of the Form W-9 that you provided to the bank must be attached to your Form W-7.
	1(d) Individuals who are receiving distributions during the current year of income such as pensions, annuities, royalties, dividends, etc. and are required to provide an ITIN to the withholding agent (i.e., investment company, insurance company, financial institution, etc.) for the purposes of tax withholding and reporting requirements.	1(d) A signed letter or document from the withholding agent, on official letterhead, showing your name and account number, and evidencing that an ITIN is required to make distributions to you during the current tax year which are subject to IRS information reporting or federal tax withholding.

Exception #2 Wages, Salary, Compensation and Honoraria Payments with Tax Treaty Benefits Claimed; or Scholarships, Fellowships and Grants with Tax Treaty Benefits Claimed; or Scholarships, Fellowships and Grants with no Tax Treaty Benefits Claimed; or Gambling Winnings with Tax Treaty Benefits Claimed.		
Note. Federal tax withholding and/or information reporting must take place within the current tax year.		
2(a). Wages, Salary, Compensation and Honoraria Payments	Persons who are eligible to claim Exception 2(a) include:	Documentation you must submit if you are eligible to claim Exception 2(a):
	<p>Individuals claiming the benefits of a tax treaty who:</p> <ul style="list-style-type: none"> <li>• are either exempt or subject to a reduced rate of withholding of tax on their wages, salary, compensation, and honoraria payments,</li> <li style="text-align: center;">and</li> <li>• will be submitting Form 8233 to the payer of the income.</li> </ul>	<ul style="list-style-type: none"> <li>• A letter of employment from the payer of the income, or</li> <li>• A copy of the employment contract, or</li> <li>• A letter requesting your presence for a speaking engagement, etc.</li> </ul> <p style="text-align: center;">along with:</p> <ul style="list-style-type: none"> <li>• Evidence (information) on the Form W-7 that you are entitled to claim the benefits of a tax treaty, and</li> <li>• A copy of the completed withholding agent's portion of Form 8233 attached to the Form W-7, and a letter from the Social Security Administration (SSA), stating that you are ineligible to receive a social security number.</li> </ul> <p><small>*If you are present in the U.S. and are receiving honoraria payments, you do not have to obtain a letter of denial from the SSA. A letter from the authorized school official will suffice.</small></p>



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Exceptions Tables (continued)

Exception #2 (continued) Wages, Salary, Compensation and Honoraria Payments with Tax Treaty Benefits Claimed; or Scholarships, Fellowships and Grants with Tax Treaty Benefits Claimed; or Scholarships, Fellowships and Grants with no Tax Treaty Benefits Claimed; or Gambling Winnings with Tax Treaty Benefits Claimed.		
<p>Note. Federal tax withholding and/or information reporting must take place within the current tax year.</p>		
<p>2(b). Scholarships, Fellowships, and Grants</p> <p>Claiming the benefits of a tax treaty</p>	<p>Persons who are eligible to claim Exception 2(b) include:</p> <p>Individuals claiming the benefits of a tax treaty who:</p> <ul style="list-style-type: none"> <li>are either exempt from or subject to a reduced rate of tax on their income from scholarships, fellowships or grants. (i.e., foreign students, scholars, professors, researchers, foreign visitors, or any other individual),</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>will be submitting Form W-8BEN to the withholding agent.</li> </ul>	<p>Documentation you must submit if you are eligible to claim Exception 2(b):</p> <ul style="list-style-type: none"> <li>A letter or official notification from the educational institution (i.e., college or university) awarding the noncompensatory scholarship, fellowship, or grant; or</li> <li>A copy of a contract with a college, university, or educational institution;</li> </ul> <p>along with:</p> <ul style="list-style-type: none"> <li>A copy of your passport showing the valid visa issued by the U.S. Department of State, and</li> <li>Evidence (information) on the Form W-7 that you are entitled to claim the benefits of a tax treaty, and</li> <li>A copy of the W-8BEN that was submitted to the withholding agent, and</li> <li>A letter from the Social Security Administration* stating that you are ineligible to receive a social security number (SSN).</li> </ul> <p>*If you are a student on an F-1, J-1, or M-1 visa who will not be working while studying in the U.S., you will not have to apply for an SSN. You will be permitted to provide a letter from the Designated School Official or Responsible Officer stating that you will not be securing employment in the U.S. or receiving any type of income from personal services.</p>
<p>2(c). Scholarships, Fellowships, and Grants</p> <p>Not claiming benefits of a tax treaty</p>	<p>Persons who are eligible to claim Exception 2(c) include:</p> <ul style="list-style-type: none"> <li>Individuals receiving noncompensatory income from scholarships, fellowships, or grants (i.e., foreign students, scholars, professors, researchers, or any other individual) that is subject to IRS information reporting and/or withholding requirements during the current year.</li> </ul>	<p>Documentation you must submit if you are eligible to claim Exception 2(c):</p> <ul style="list-style-type: none"> <li>A letter or official notification from the educational institution (i.e., college or university) awarding the noncompensatory scholarship, fellowship, or grant; or</li> <li>A copy of a contract with a college, university, or educational institution;</li> </ul> <p>along with:</p> <ul style="list-style-type: none"> <li>A copy of your passport showing the valid visa issued by the U.S. Department of State, and</li> <li>A letter from the Designated School Official (DSO) or Responsible Officer (RO) stating that you are receiving noncompensatory income from scholarships, fellowships, or grants that is subject to IRS information reporting and/or federal tax withholding requirements during the current year (this letter must be attached to your Form W-7 or your application for an ITIN will be denied), and</li> <li>A letter from the Social Security Administration* stating that you are ineligible to receive a social security number (SSN).</li> </ul> <p>*If you are a student on an F-1, J-1, or M-1 visa who will not be working while studying in the U.S., you will not have to apply for an SSN. You will be permitted to provide a letter from the DSO or RO stating that you will not be securing employment in the U.S. or receiving any type of income from personal services.</p>
<p>2(d). Gambling Income</p> <p>Claiming the benefits of a tax treaty</p>	<p>Persons who are eligible to claim Exception 2(d) include:</p> <p>Nonresident aliens visiting the U.S. who:</p> <ul style="list-style-type: none"> <li>have gambling winnings,</li> <li>are claiming the benefits of a tax treaty for an exempt or reduced rate of federal tax withholding on that income, and</li> <li>will be utilizing the services of a gaming official as an IRS ITIN Acceptance Agent.</li> </ul>	<p>Documentation you must submit if you are eligible to claim Exception 2(d):</p> <p>Your W-7, which must be submitted through the services of an appropriate gaming official serving as an IRS ITIN Acceptance Agent to apply for an ITIN under Exception 2(d).</p> <p>Note. If you do not secure the services of a gaming official, you may still file Form 1040NR at the end of the tax year with a Form W-7, attaching a copy of Form 1042-S displaying the amount of tax withheld. Your 1040NR return should also display the tax treaty article number and country under which you are claiming the treaty benefits.</p>

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**Exceptions Tables (continued)**

Exception #3 Third Party Reporting of Mortgage Interest	
Note. Federal tax withholding and/or information reporting must take place within the current tax year.	
Third Party Reporting of Mortgage Interest	If you are eligible to claim Exception 3, you must submit documentation showing evidence of a home mortgage loan. This would include a copy of the contract of sale or similar documentation showing evidence of a home mortgage loan on real property located in the United States.

  

Exception #4 Third Party Withholding—Disposition by a Foreign Person of United States Real Property Interest	
Note. Federal tax withholding and/or information reporting must take place within the current tax year.	
Third Party Withholding—Disposition by a Foreign Person of United States Real Property Interest	<p>A withholding obligation is generally imposed on a buyer or other transferee (withholding agent) when a United States real property interest is acquired from a foreign person. In some instances, the foreign person may apply for a withholding certificate to reduce or eliminate withholding on the disposition of real property.</p> <p>If you are eligible to claim Exception 4, you must submit:</p> <ul style="list-style-type: none"> <li>• A completed Form 8288-B, and</li> <li>• A copy of the sale contract.</li> </ul> <p>Note. For the seller of the property, Forms 8288 and 8288A submitted by the buyer should be attached to the Form W-7.</p>

\*EXHIBIT G**SOCIAL SECURITY ADMINISTRATION**  
**Application for a Social Security Card**

Applying for a Social Security Card is easy AND it is free!

**USE THIS APPLICATION TO APPLY FOR:**

- An **original** Social Security card
- A **duplicate** Social Security card (same name and number)
- A **corrected** Social Security card (name change and same number)
- A **change of information** on your record other than your name (no card needed)

**IMPORTANT:** You **MUST** provide the required evidence or we cannot process the application. Follow the instructions below to provide the information and evidence we need.

- STEP 1** Read pages 1 through 3 which explain how to complete the application and what evidence we need.
- STEP 2** Complete and sign the application using BLUE or BLACK ink. Do not use pencil or other colors of ink. Please print legibly.
- STEP 3** Submit the completed and signed application with all required evidence to any Social Security office.

**HOW TO COMPLETE THIS APPLICATION**

Most items on the form are self-explanatory. Those that need explanation are discussed below. The numbers match the numbered items on the form. If you are completing this form for someone else, please complete the items as they apply to that person.

2. Show the address where you can receive your card 10 to 14 days from now.
3. If you check "Legal Alien **Not** Allowed to Work," you need to provide a document from the government agency requiring your Social Security number that explains why you need a number and that you meet all of the requirements for the benefit or service except for the number. A State or local agency requirement must conform with Federal law.  
  
If you check "Other," you need to provide proof you are entitled to a federally-funded benefit for which a Social Security number is required as a condition for you to receive payment.
5. Providing race/ethnic information is voluntary. However, if you do give us this information, it helps us prepare statistical reports on how Social Security programs affect people. We do not reveal the identities of individuals.
6. Show the month, day and full (4 digit) year of birth, for example, "1998" for year of birth.
- 8.B. Show the mother's Social Security number only if you are applying for an original Social Security card for a child under age 18. You may leave this item blank if the mother does not have a number or you do not know the mother's number. We will still be able to assign a number to the child.
- 9.B. Show the father's Social Security number only if you are applying for an original Social Security card for a child under age 18. You may leave this item blank if the father does not have a number or you do not know the father's number. We will still be able to assign a number to the child.

\*EXHIBIT G (Cont'd.)

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13. If the date of birth you show in item 6 is different from the date of birth you used on a prior application for a Social Security card, show the date of birth you used on the prior application and submit evidence of age to support the date of birth in item 6.
  16. You **must** sign the application yourself if you are age 18 or older and are physically and mentally capable. If you are under age 18, you may also sign the application if you are physically and mentally capable. If you cannot sign your name, you should sign with an "X" mark and have two people sign as witnesses in the space beside the mark. If you are physically or mentally incapable of signing the application, generally a parent, close relative, or legal guardian may sign the application. Call us if you need clarification about who can sign.
- 

**ABOUT YOUR DOCUMENTS**

- We need **ORIGINAL** documents or **copies certified by the custodian of the record**. We will return your documents after we have seen them.
  - **We cannot accept photocopies or notarized copies of documents.**
  - If your documents do not meet this requirement, we cannot process your application.
- 

**DOCUMENTS WE NEED**

To apply for an **ORIGINAL CARD** (you have NEVER been assigned a Social Security number before), we need at least 2 documents as proof of:

- **Age,**
- **Identity, and**
- **U.S. citizenship or lawful alien status.**

To apply for a **DUPLICATE CARD** (same number, same name), we need proof of **identity**.

To apply for a **CORRECTED CARD** (same number, different name), we need proof of **identity**. We need one or more documents which identify you by the **OLD NAME** on our records and your **NEW NAME**. Examples include: a marriage certificate, divorce decree, or a court order that changes your name. Or we can accept two identity documents - one in your old name and one in your new name. (See **IDENTITY**, for examples of identity documents.)

**IMPORTANT:** If you are applying for a duplicate or corrected card and were **born outside the U.S.**, we also need proof of U.S. citizenship or lawful alien status. (See **U.S. CITIZENSHIP** or **ALIEN STATUS** for examples of documents you can submit.)

**AGE:** We prefer to see your birth certificate. However, we can accept another document that shows your age. Some of the other documents we can accept are:

- Hospital record of your birth (created at the time of your birth)
- Religious record showing your age made before you were 3 months old
- Passport
- Adoption record (the adoption record must indicate that the birth data was taken from the original birth certificate)

Call us for advice if you cannot obtain one of these documents.

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**IDENTITY:** We must see a document in the name you want shown on the card. The identity document must be of recent issuance so that we can determine your continued existence. We prefer to see a document with a photograph. However, we can generally accept a non-photo identity document if it has enough information to identify you (e.g., your name, as well as age, date of birth or parents' names). **WE CANNOT ACCEPT A BIRTH CERTIFICATE, HOSPITAL SOUVENIR BIRTH CERTIFICATE, SOCIAL SECURITY CARD OR CARD STUB, OR SOCIAL SECURITY RECORD** as evidence of identity. Some documents we can accept are:

- Driver's license
- Employee ID card
- Passport
- Marriage or divorce record
- Adoption record (only if not being used to establish age)
- Health insurance card (not a Medicare card)
- Military record
- Life insurance policy
- School ID card

As evidence of identity for infants and young children, we can accept :

- Doctor, clinic, hospital record
- Daycare center, school record
- Religious record (e.g., baptismal record)

**IMPORTANT:** If you are **applying for a card on behalf of someone else**, you must provide evidence that establishes your authority to sign the application on behalf of the person to whom the card will be issued. In addition, we must see proof of identity for both you and the person to whom the card will be issued.

**U. S. CITIZENSHIP:** We can accept most documents that show you were born in the U.S. If you are a U.S. citizen born outside the U.S., show us a U.S. consular report of birth, a U.S. passport, a Certificate of Citizenship, or a Certificate of Naturalization.

**ALIEN STATUS:** We need to see an unexpired document issued to you by the Department of Homeland Security (DHS) showing your immigration status, such as Form I-551, I-94, I-688B, or I-766. We **CANNOT** accept a receipt showing you applied for the document. If you are not authorized to work in the U.S., we can issue you a Social Security card if you are lawfully here and need the number for a valid nonwork reason. (See **HOW TO COMPLETE THIS APPLICATION**, Item 3.) Your card will be marked to show you cannot work. If you do work, we will notify DHS.

To **CHANGE INFORMATION** on your record other than your name, we need proof of:

- **Identity**, and
- **Another document which supports the change** (for example, a birth certificate to change your date and/or place of birth or parents' names).

## HOW TO SUBMIT THIS APPLICATION

In most cases, you can mail this application with your evidence documents to any Social Security office. We will return your documents to you. If you do not want to mail your original documents, take them with this application to the nearest Social Security office.

**EXCEPTION:** If you are age 12 or older and have never been assigned a number before, you must apply in person.

If you have any questions about this form, or about the documents we need, please contact any Social Security office. A telephone call will help you make sure you have everything you need to apply for a card or change information on your record. You can find your nearest office in your local phone directory or on our website at [www.socialsecurity.gov](http://www.socialsecurity.gov).

\*Exhibit G (Cont'd.)

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### THE PAPERWORK/PRIVACY ACT AND YOUR APPLICATION

The Privacy Act of 1974 requires us to give each person the following notice when applying for a Social Security number.

Sections 205(c) and 702 of the Social Security Act allow us to collect the facts we ask for on this form.

We use the facts you provide on this form to assign you a Social Security number and to issue you a Social Security card. You do not have to give us these facts, however, without them we cannot issue you a Social Security number or a card. Without a number, you may not be able to get a job and could lose Social Security benefits in the future.

The Social Security number is also used by the Internal Revenue Service for tax administration purposes as an identifier in processing tax returns of persons who have income which is reported to the Internal Revenue Service and by persons who are claimed as dependents on someone's Federal income tax return.

We may disclose information as necessary to administer Social Security programs, including to appropriate law enforcement agencies to investigate alleged violations of Social Security law; to other government agencies for administering entitlement, health, and welfare programs such as Medicaid, Medicare, veterans benefits, military pension, and civil service annuities, black lung, housing, student loans, railroad retirement benefits, and food stamps; to the Internal Revenue Service for Federal tax administration; and to employers and former employers to properly prepare wage reports. We may also disclose information as required by Federal law, for example, to the Department of Homeland Security, to identify and locate aliens in the U.S.; to the Selective Service System for draft registration; and to the Department of Health and Human Services for child support enforcement purposes. We may verify Social Security numbers for State motor vehicle agencies that use the number in issuing drivers licenses, as authorized by the Social Security Act. Finally, we may disclose information to your Congressional representative if they request information to answer questions you ask him or her.

We may use the information you give us when we match records by computer. Matching programs compare our records with those of other Federal, State, or local government agencies to determine whether a person qualifies for benefits paid by the Federal government. The law allows us to do this even if you do not agree to it.

Explanations about these and other reasons why information you provide us may be used or given out are available in Social Security offices. If you want to learn more about this, contact any Social Security office.

This information collection meets the requirements of 44 U.S.C. §3507, as amended by Section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 8.5 to 9 minutes to read the instructions, gather the facts, and answer the questions. **SEND THE COMPLETED FORM TO YOUR LOCAL SOCIAL SECURITY OFFICE. The office is listed under U. S. Government agencies in your telephone directory or you may call Social Security at 1-800-772-1213. You may send comments on our time estimate above to: SSA, 1338 Annex Building, Baltimore, MD 21235-0001. Send only comments relating to our time estimate to this address, not the completed form.**

# SOCIAL SECURITY ADMINISTRATION Application for a Social Security Card

Form Approved  
OMB No. 0960-0066

<b>1</b>	<b>NAME</b> → <small>TO BE SHOWN ON CARD</small>			First	Full Middle Name	Last
	<b>FULL NAME AT BIRTH IF OTHER THAN ABOVE</b>			First	Full Middle Name	Last
	<b>OTHER NAMES USED</b>					
<b>2</b>	<b>MAILING ADDRESS</b> → <small>Do Not Abbreviate</small>			Street Address, Apt. No., PO Box, Rural Route No.		
				City	State	Zip Code
<b>3</b>	<b>CITIZENSHIP</b> → <small>(Check One)</small>	<input type="checkbox"/> U.S. Citizen <input type="checkbox"/> Legal Alien Allowed To Work <input type="checkbox"/> Legal Alien Not Allowed To Work (See Instructions On Page 1) <input type="checkbox"/> Other (See Instructions On Page 1)				
<b>4</b>	<b>SEX</b> →	<input type="checkbox"/> Male <input type="checkbox"/> Female				
<b>5</b>	<b>RACE/ETHNIC DESCRIPTION</b> → <small>(Check One Only - Voluntary)</small>	<input type="checkbox"/> Asian, Asian-American or Pacific Islander <input type="checkbox"/> Hispanic <input type="checkbox"/> Black (Not Hispanic) <input type="checkbox"/> North American Indian or Alaskan Native <input type="checkbox"/> White (Not Hispanic)				
<b>6</b>	<b>DATE OF BIRTH</b> → <small>Month, Day, Year</small>	<b>7</b>	<b>PLACE OF BIRTH</b> → <small>(Do Not Abbreviate)</small>		City	State or Foreign Country
					<small>Office Use Only</small>	
<b>8</b>	<b>A. MOTHER'S MAIDEN NAME</b> →			First	Full Middle Name	Last Name At Her Birth
	<b>B. MOTHER'S SOCIAL SECURITY NUMBER</b> →			<input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		
<b>9</b>	<b>A. FATHER'S NAME</b> →			First	Full Middle Name	Last
	<b>B. FATHER'S SOCIAL SECURITY NUMBER</b> →			<input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		
<b>10</b>	Has the applicant or anyone acting on his/her behalf ever filed for or received a Social Security number card before? <input type="checkbox"/> Yes (If "yes", answer questions 11-13.) <input type="checkbox"/> No (If "no", go on to question 14.) <input type="checkbox"/> Don't Know (If "don't know", go on to question 14.)					
<b>11</b>	Enter the Social Security number previously assigned to the person listed in item 1. →			<input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		
<b>12</b>	Enter the name shown on the most recent Social Security card issued for the person listed in item 1. →			First	Middle Name	Last
<b>13</b>	Enter any different date of birth if used on an earlier application for a card. →			_____ <small>Month, Day, Year</small>		
<b>14</b>	<b>TODAY'S DATE</b> → <small>Month, Day, Year</small>		<b>15</b>	<b>DAYTIME PHONE NUMBER</b> → <small>( ) _____ Area Code      Number</small>		
<b>16</b>	<b>YOUR SIGNATURE</b> →			<b>YOUR RELATIONSHIP TO THE PERSON IN ITEM 1 IS:</b> <input type="checkbox"/> Self <input type="checkbox"/> Natural Or Adoptive Parent <input type="checkbox"/> Legal Guardian <input type="checkbox"/> Other (Specify)		
<b>DO NOT WRITE BELOW THIS LINE (FOR SSA USE ONLY)</b>						
NPN		DOC		NTI		CAN
ITV	PBC	EVI	EVA	EVC	PRA	NWR
DNR	UNIT					
EVIDENCE SUBMITTED				SIGNATURE AND TITLE OF EMPLOYEE(S) REVIEWING EVIDENCE AND/OR CONDUCTING INTERVIEW		
				DATE		

\*EXHIBIT H

**University of California,**  
**(Campus or Laboratory)**  
*Certification of Academic Activity*

The American Competitiveness Workforce Act of 1998 allows payment of honoraria and associated travel and incidental expenses to B-1, B-2, WB, and WT visa holders for "usual *academic activity*," if paid by an institution of higher education, a nonprofit organization affiliated with an institution of higher education, or a nonprofit or a governmental research organization. In accordance with the immigration law, the University may make payment of honoraria and travel and incidental expenses to B-1, B-2, WB, and WT visa holders under the following requirements:

**PAYMENT REQUIREMENTS:**Honoraria

**B-1, B-2, WB, and WT visa holders** may be paid an honorarium for usual academic activity *not exceeding nine days* in duration, provided that such individual has not received honoraria from more than 5 educational institutions in the previous six-month period.

Travel and Incidental Expenses

**B-1 and WB visa holders** may be reimbursed for reasonable travel and incidental expenses incurred in connection with a usual academic activity, regardless of the duration of the activity and regardless of whether the individual has previously received payment from other educational institutions.

**B-2 and W-T visa holders** may be reimbursed for reasonable travel and incidental expenses incurred in connection with a usual academic activity *not exceeding nine days* in duration, provided that such individual has not received travel and incidental expenses from more than 5 educational institutions in the previous six-month period.

**VISITOR INFORMATION:**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_

Social Security Number or Individual Taxpayer Identification Number: \_\_\_\_\_. (In order to receive an honorarium payment you must have a Social Security Number or an Individual Taxpayer Identification Number).

What type of payment will you be receiving?     Honorarium     Travel and Incidental Expenses     Both

Enter the visa classification under which you are currently present in the United States: \_\_\_\_\_

The dates of my activity at the University of California will be from: \_\_\_\_\_ to \_\_\_\_\_

Please indicate the type of activity you will be engaged in while at the University:  Guest lecturer  Conference participant

Researcher     Other: If other, please describe: \_\_\_\_\_

**ACKNOWLEDGEMENT AND CERTIFICATION:**

I have accepted an invitation by the University of California for the purpose of engaging in a usual academic activity. I acknowledge I will receive an honorarium payment and/or reimbursement of travel and incidental expenses for my academic activity in accordance with the above payment requirements.

I certify that the information I have provided on this form is to the best of my knowledge and belief, true and complete.

Signature of Nonresident Alien: \_\_\_\_\_ Date: \_\_\_\_\_



APPENDIX A Overview of Immigration Status Categories

U.S. Citizen	U.S. citizenship is usually gained by persons at birth in the United States. It also may be gained by birth to U.S. citizen parents or through naturalization.
Permanent Resident	A permanent resident can be called an "Immigrant". Permanent residency gives an alien the right to reside permanently in the U.S. while maintaining his/her own non-U.S. citizenship. Generally permanent residents are the only aliens eligible for naturalization.
Temporary Resident	Generally temporary residents are persons who have applied for legalization or amnesty. A temporary resident eventually will become a permanent resident.
Nonresident	An alien who comes to the U.S. temporarily for some purpose such as study, business, tourism. Normally a nonresident leaves the U.S. within a determined time although it is possible to change status while in the U.S.
Asylee/Refugees	A person who has been granted asylum but has not yet been granted permanent residency.
Temporary Protected Status	Persons from designated countries who have been granted the right to remain and work in the U.S. for a specified time. This is generally due to adverse and extraordinary circumstances in their home country.
Out of Status	Usually a nonresident who entered the U.S. with legal status but who has violated the terms of his or her admission (e.g. overstay).
Undocumented Alien (Illegal)	A person who has entered the US illegally (without valid entry status or documentation).

APPENDIX B Overview of past and present alien registration cards

Alien Registration Receipt Card I-151	Issued by the INS, prior to June 1978, to lawful permanent resident aliens. There are numerous versions of this card because it was periodically revised. Although this card is no longer issued, it is valid indefinitely. This card is also commonly referred to as a "green card" although most versions were also blue. The card is currently under recall.
Alien Registration Receipt Card (Resident Alien Card) I-551	Issued by the INS after March 1977 to lawful permanent resident aliens. Although this card is no longer issued, it is valid indefinitely. The card is commonly referred to as a "green card" and is the replacement for the Form I-151. This version is white with a blue logo.
Alien Registration Receipt Card (Conditional Resident Alien Card) I-551	Issued by the INS after January 1987 to conditional permanent resident aliens such as spouses of U.S. citizens or lawful permanent resident aliens. It is similar to the I-551 issued to permanent resident aliens. This card is no longer issued. It was valid for 2 years from the date of admission or adjustment. The expiration date is listed on the back of the card. This version is white with a blue logo.
Alien Registration Receipt Card (Resident Alien Card) I-551	Issued by the INS since 1989 to both conditional and lawful permanent resident aliens. Although it is similar to the previously issued I-551's, this card is valid only for a limited period of time--two years from the date of admission or adjustment for conditional permanent resident aliens and 10 years from issuance for lawful permanent resident aliens. The expiration date is listed on the front of the card. This version is rose-colored with a blue logo.
Temporary Resident Card I-688	Issued by the INS to aliens granted temporary resident status under the Legalization or Special Agricultural Worker program. It is valid until the expiration date printed on the face of the card or on the sticker(s) placed on the back of the card.
Employment Authorization Card I-688A	Issued by the INS to applicants for temporary resident status after their interview for Legalization or Special Agricultural Worker status. It is valid until the expiration date printed on the face of the card or the sticker(s) placed on the back of the card.
Employment Authorization Card I-688B	Issued by the INS to aliens granted authorization for temporary employment in the U.S. The expiration date is printed on the face of the card. This card is known as the EAD. INS began phasing out the I-688B in January 1997. Holders of this card do not need to replace their current card with the new Form I-766. This card will remain valid until the expiration date on the individual card.
Employment Authorization Card I-766	Issued by the INS to aliens who are not legal permanent residents but who have been granted temporary permission to work in the U.S. Initial distribution of this card began in January 1997.
Employment Authorization Document (EAD), Form I-766	Issued by INS in January 1997 to replace the I-688B. This card looks like a credit card.
Arrival/Departure Card I-94	The I-94 is the Arrival/Departure card for non-immigrants. It is evidence of status for the individual and lists the terms of status. This small white card is stapled to a foreign passport of a non-immigrant upon entry to the United States. The information shown on the card includes the date of entry, visa type, and departure date.
Arrival/Departure Card I-94W	Prior to arrival in the U.S., non-immigrants who do not have a visa and are eligible for the Visa Waiver Program are required to complete the I-94W form. This form is generally completed while in transit to the U.S. Individuals must be a resident of a participating country. Appendix G contains a list of participating countries.
I-20 ID	All important actions (transfers, work permission, etc) are recorded on this document.
IAP-66	Document indicating that the individual has a J-1 visa

APPENDIX C Visa Classifications

Visa	Classification	May Be Employed As a Condition of Admission	May be Employed With Special INS Authorization	May Not Be Employed
B-1	Visitor for business			X
B-2	Visitor for pleasure			X
F-1	Academic student	on campus	off campus	
F-2	Academic student's alien spouse			X
H-1B H-2B H-3	Temporary professional worker Temporary worker Temporary professional worker trainee	X		
H-4	Temporary worker's or trainee alien spouse			X
J-1	Exchange visitor	X		
J-2	Exchange visitor's alien spouse		X	
L-1	Intra-company transfer			X
L-2	Dependent of L-1		X	
O-1	Alien of extraordinary ability	X		
O-2	Alien with critical skills and experience	X		
O-3	Dependents of O-1's and O-2's			X
P-1	Alien athlete internationally recognized	X		
P-2	Alien artist or entertainer, individual or group	X		
P-3	Alien providing essential support to P-1 or P-2 visa holders	X		
P-4	Dependents of P-1's, 2's or 3's			X
TN <sup>17</sup>	Canadian or Mexican citizen business person	X		
WB	Waiver for business			X
WT	Waiver for tourism			X

Note: The Visa Classification Chart located at the following web site address contains additional information:

<http://www.ucop.edu/ucophome/cao/paycoord/visachart.html>

<sup>17</sup> TN is a special INS classification; it is not a visa type.

APPENDIX D Procedures--Vendor Payments to Nonemployee Aliens<sup>18</sup>

Form/Procedures	Resident Alien	Nonresident Alien without Tax Treaty Benefits	Nonresident Alien with Tax Treaty Benefits
Form 8233			√
Form UC W-8BEN (for copy of this form see Exhibit A)		√	√
Form W-9 Request for Taxpayer Identification Number and Certification <a href="http://www.irs.gov/pub/irs-fill/fw9.pdf">http://www.irs.gov/pub/irs-fill/fw9.pdf</a>	√		
Tax Code <sup>19</sup>	2	9	9
Tax Withholding	None	One personal allowance <sup>20</sup> 30% <sup>21</sup>	Reduced or None
Tax Reporting Form	1099	1042-S	1042-S

<sup>18</sup> If the status of the alien payee cannot be determined, the payment is taxed at the 30 percent rate, taxed coded 9, and reported on Form 1042-S.

<sup>19</sup> Campuses may establish local codes provided that the payments are accounted for, and taxes are reported, in conformance with the rules set forth in this chapter.

<sup>20</sup> Refer to IV.C.3.c, regarding allowable personal exemptions for residents of Canada, Mexico, South Korea, and India. F, J, or M visas are taxed at 30 percent after personal exemption.

<sup>21</sup> Other visas are taxed at 30%.

APPENDIX E Procedures--Salaries and Wages

Form/Procedures	Resident Alien	Nonresident Alien without Tax Treaty Benefits	Nonresident Alien with Tax Treaty Benefits
UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding Form (Exhibit A)		√	√
Form W-9 Request for Taxpayer Identification Number and Certification <a href="http://www.irs.gov/pub/irs-fill/fw9.pdf">http://www.irs.gov/pub/irs-fill/fw9.pdf</a>	√		
Withholding Tax Status (Exhibit B)		√	√
Form 8233 <sup>22</sup>	N/A	N/A	√
Tax Treaty Statement	N/A	N/A	√
Citizenship Status Code	R	N, A, P, S, or X	E or F
Withholding Tax Status	Same basis as U.S. Citizen	Depends on <sup>23</sup> Citizenship Status Code	Exempt from Federal tax withholding <sup>24</sup>
Tax Reporting Form	W-2	W-2	1042-S <sup>25</sup>

<sup>22</sup> Exemption from Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual.

<sup>23</sup> Federal Tax based on the following citizenship status codes:

N = Single Martial Status and one personal allowance.

A = Single Marital Status open allowances (refer to IV.C.1.b., regarding allowable personal exemptions for residents of Canada, Mexico, South Korea, and India).

\*\*\*

X = Exempt Status. Nonresident alien who live and work outside of the U.S. are not subject to federal income tax withholding.

<sup>24</sup> Aliens that are exempt from federal tax withholding under a tax treaty agreement are subject to California Personal Income tax withholding.

<sup>25</sup> State taxable gross wages and tax withheld are reported on Form W-2.

\*APPENDIX F Totalization Agreements

As of this time, the following countries have totalization agreements with the U.S.:

Australia  
 Austria  
 Belgium  
 Canada  
 Chile  
 \*\*\*  
 Finland  
 France  
 Germany  
 Greece  
 Ireland  
 Italy  
 \*\*\*  
 Luxembourg  
 Netherlands  
 Norway  
 Portugal  
 \*\* South Korea  
 Spain  
 Sweden  
 Switzerland  
 United Kingdom

Negotiations for a new treaty or protocol are underway with the following countries:

Argentina  
 Brazil  
 Israel  
 Japan  
 New Zealand

APPENDIX G - Visa Waiver Program

At this time, the following countries are participating in the Visa Waiver Program:

Andorra  
Australia  
Austria  
Belgium  
Brunei  
\*\* Czech Republic  
Denmark  
\*\* Estonia  
Finland  
France  
Germany  
\*\* Hungary  
Iceland  
Ireland  
Italy  
Japan  
\*\* Latvia  
Liechtenstein  
\*\* Lithuania  
Luxembourg  
\*\* Malta  
Monaco  
Netherlands  
New Zealand  
Norway  
Portugal  
San Marino  
Singapore  
\*\* Slovakia  
Slovenia  
\*\* South Korea  
Spain  
Sweden  
Switzerland  
United Kingdom  
\*\*\*

APPENDIX H**Internal Revenue Service Procedures for Acceptance Agents**

The Internal Revenue Service (IRS) published Revenue Procedure 96-52<sup>26</sup>, which describes the application procedures for becoming an acceptance agent. An acceptance agent facilitates the issuance of the Individual Taxpayer Identification Numbers (ITINs) to alien individuals who are ineligible to obtain Social Security Numbers (SSNs), or Employer Identification Numbers (EINs) to foreign persons.

Each campus or Laboratory may enter into an agreement with the IRS to become an acceptance agent for its location. Under an agreement with the IRS, an acceptance agent would assume responsibility for providing the necessary information to the IRS and to the applicant. The acceptance agent procedures are summarized below.

**I. What is an Acceptance Agent?**

Person's eligible to become an acceptance agent includes banks, governmental agencies, colleges and universities, tax preparers, etc. An organization must execute an agreement with the IRS in order to serve as an acceptance agent. An acceptance agent assist individuals in obtaining ITIN's or EIN's from the IRS but does not act as an agent of the IRS.

**II. Classification of Acceptance Agent**

Acceptance agents have a choice of certifying the authenticity of the alien individual's documentation or merely facilitating the transfer of the documentation to the IRS:

- If an acceptance agent elects to become a *certifying acceptance agent*, the agent is not required to submit supporting documentation with the application for an ITIN. However, the acceptance agent will be required to maintain a record of such documentation. *Please note certifying agents **will not** be able to issue an ITIN to the applicant. Agents simply certify to the IRS that they have seen documentation that verifies the identity and foreign status of the applicant. The Form W-7 must then be forwarded to the IRS Philadelphia Service Center for processing.*

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<sup>26</sup> Revenue Procedure 96-52 is available from the following web site:  
<http://ftp.fedworld.gov/pub/irs-irbs/irb96-48.pdf>



- If an *acceptance agent* elects not to become a certifying agent, the agent must submit original or certified copies of the original documentation to the IRS.

### **III. Responsibilities of an Acceptance Agent**

An acceptance agent facilitates the application process and the issuance of an ITIN or EIN to alien individuals by forwarding to the IRS the completed application forms and required documentation:

- For W-7, Application for Individual Taxpayer Identification Number, for scholarship/fellowship recipients, individuals who receive honorarium payments, etc.; or
- SS-4 Application for Employer Identification Number, for foreign corporations, partnerships, trusts, etc.

#### **A. Application Forms**

An acceptance agent agrees to provide copies of the Form W-7 to ITIN applicants and to keep such copies on file. In addition, the agent must provide a Form W-7 to any individual that it knows has been issued a temporary tax identification number by the IRS. The individual must be advised of the need to replace the temporary tax identification number with an ITIN.

#### **B. Completion and Submission of the Application Form**

To ensure proper completion of the Form W-7, an acceptance agent provides assistance in the preparation of the form and verifying that it has been completed. The acceptance agent act as a liaison with the IRS in answering inquiries regarding information to be provided on the form, the application process, the requirement to obtain an ITIN, or other related questions. The acceptance agent submits the completed Forms W-7 to the IRS.

#### **C. Collecting and Reviewing Required Documentation**

A Form W-7 must be accompanied by documents proving the alien's status and identity. Generally, ITIN applicants must submit the required documentation during a personal interview with the acceptance agent. The types of acceptable documentation may vary

APPENDIX H (Cont'd.)

according to an individual's country of citizenship and nationally and will be established under each acceptance agent's agreement with the IRS.

- Examples of documentation supporting an alien's immigration status include a foreign passport, foreign birth record, or current documentation issued by the Immigration and Naturalization Service (INS).
- Examples of documentation supporting an alien's identity include a driver's license, identity card, school, medical, or marriage record, voter or military registration card, passport, or current document issued by the INS. Generally, one piece of identification should include a photo of the applicant.

**D. Submission of Documentation**

Submission of the documentation by the acceptance agent depends upon the agent's classification.

- Generally, the original (or certified copies of original) documents must be submitted with the application. According to the IRS all original documents will be returned promptly to the acceptance agent with 3 business days. *Please note the reference to "certified copies" in the instructions to Form W-7 has erroneously been interpreted to include "notarized copies." Notaries are not qualified to review, verify, and attest to the authenticity of a document: therefore review by a notary is not acceptable. In addition, an English translation - and both the copy of the original should accompany documents written in a foreign language and the record custodian should authenticate the English translation.*
- A certifying acceptance agent may submit the application to the IRS on behalf of the applicant without furnishing supporting documents. Instead of providing the documents, a certifying acceptance agent certifies to the IRS that it has reviewed the appropriate documentation and that it is maintaining a record of the documents until termination of the ITIN applicant and acceptance agent's business relationship.

**E. Change of Alien Status**

When an acceptance agent knows that an individual assigned an ITIN has become eligible to obtain (or has obtained) a Social Security Number (SSN), the acceptance agent shall inform the individual of his or her obligation to:

- Apply for an SSN,
- Stop using the previously-assigned ITIN upon receipt of the new SSN, and
- Notify the IRS of his or her change in status.

**IV. Acceptance Agent Application Procedures****A. Pre-application Conference**

Campuses or Laboratories interested in becoming an acceptance agent may request a pre-application conference with the IRS, which may be held in person or over the telephone. The purpose of the conference is to informally discuss the benefits and burdens associated with becoming an acceptance agent. For certifying acceptance agents, such matters as documentation, record maintenance, and verification procedures arising under the agreement may be discussed.

**B. Written Applications**

A campus or Laboratory may request permission to enter into an agreement with the IRS by submitting a written request to the IRS. The application shall include the following required information:

- Applicant's complete name, address, and employer identification number.
- Reason the applicant wishes to become an acceptance agent, and the type of responsibilities the applicant expects to assume.
- Description of the applicant including entity status and state, (or if outside the U.S., the country) under whose laws the applicant is created or organized.

APPENDIX H (Cont'd.)

- List of the applicant's employee's including title and position description, who will be responsible parties for performance under the agreement.

**C. IRS Review of Application**

Upon review of the application the IRS may request additional information. If approved, the IRS will provide instructions to the applicant regarding procedures for entering into the acceptance agent agreement with the IRS.

**V. Compliance Checks**

A certifying acceptance agent must agree to furnish supporting documents to the IRS upon written request. The acceptance agent agreement will specify the manner in which IRS compliance checks will take place (i.e., either on site or through correspondence).

**VI. Termination of Agreement**

An acceptance agent agreement is generally not subject to expiration or renewal. The acceptance agent or the IRS may terminate an agreement 30 days after delivery of notice of termination to the other party.

The IRS generally will not terminate the agreement unless the acceptance agent fails to comply with the terms and conditions of the agreement.