

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP GRANTS
AND EDUCATIONAL ASSISTANCE

Contents

	<u>Page</u>
I. Introduction	3
II. Definitions	3
III. Scholarship and Fellowship Grants - Citizens and Resident Aliens	5
A. General Rule	5
B. Limitation - Compensation for Services	5
1. Determination of Fair Market Value	8
2. Tax Treatment of Compensation Portion	8
C. Recipient Tax Reporting	9
1. Degree Candidates	9
2. Non-Degree Candidates and Post-Doctoral Fellows	10
IV. Scholarship and Fellowship Grants - Nonresident Aliens	10
A. U.S. Tax Reporting and Reporting Obligations	10
B. Determining Taxable Income	11
1. Sourcing Rules	11
2. U.S. Income Tax Treaty Exemption	12
3. Qualified Scholarship Exclusion	12
a. Degree Candidates	13
b. Non-Degree Candidates and Post-Doctoral Fellows	13
C. Withholding and Reporting Procedures	14
1. Tax Treaty Benefits	14
2. Tax Withholding	15
3. Payments Made to Third Parties	17
4. Compensation for Services	18
V. Health Insurance	19

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 2

Contents (Cont.)

	<u>Page</u>
VI. Employee Educational Assistance	19
A. Qualified Fee or Tuition Reductions	19
B. Section 127 Educational Assistance	21
C. Reimbursement of Employee Education Expenses Related to Current Job	22
VII. Taxation of Health Benefits Provided to Postdoctoral Employees, Fellows, and Paid Directs	23
VIII. California State Tax	25
IX. Responsibilities	25
X. References	26
Appendix A Tax Treatment of Scholarship and Fellowship Grants and Educational Assistance	29
Appendix B Tax Treatment of Postdoctoral Health Benefits	33
Exhibit A Withholding Tax Status--Scholarship/ Fellowship Recipients	34
Exhibit B Form UC W-4NR, University of California Nonresident Alien Scholarships and Fellowship Recipients Federal Withholding Allowance Certificate	35
Exhibit C University of California Employee Educational Assistance Tax Determination Form	38
Exhibit D Sample Letter to Students	39
Exhibit E Sample Letter to Postdoctoral Scholars	42
Exhibit F Section 127 Educational Assistance Plan	44
**Exhibit G Fellowship/Compensation Checklist	55

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP GRANTS
AND EDUCATIONAL ASSISTANCE

I. INTRODUCTION

This chapter presents the Internal Revenue Service (IRS) requirements and related University procedures for Federal income tax withholding and reporting of scholarship and fellowship grant payments, tuition reductions, and employee educational assistance made to U.S. citizens, resident aliens, and nonresident aliens. Information on residency determination is provided in Accounting Manual chapter T-182-27, Taxes: Federal Taxation of Aliens (AMC T-182-27); the relevant sections of that chapter are referenced throughout this chapter.

The IRS forms and instructions referenced in this chapter are provided in AMC T-182-27. In addition, these forms and relevant IRS publications are available from the IRS web site, which is located at the following address:
<http://www.irs.gov/formspubs/lists/0,,id=97817,00.html>

Appendix A contains a chart detailing the Federal and State tax status of scholarship and fellowship grants and educational assistance payments discussed in this chapter.

II. DEFINITIONS

- *
 - **Degree Candidate** - This term, as defined in the regulations, is somewhat misleading. Although it covers undergraduate and graduate students enrolled in a degree program at a college or university, it also covers full- and part-time students who are merely attending an accredited educational institution authorized to provide a bachelor's or higher degree, even though the students are not actually enrolled in a degree program. Also, the individual may be pursuing studies or conducting research at an educational organization other than the one actually conferring the degree and still be considered a candidate for a degree.
 - **Fellowship Grant** - an amount paid to or for the benefit of an individual to aid the individual in the pursuit of study or research.

II. DEFINITIONS (Cont.)

- **Graduate-level Course** - for purposes of the qualified fee or tuition reduction exclusion, any course taken by an employee who has a bachelor's degree or is receiving credit toward a more advanced degree, if the course can be taken for credit by any individual in a program leading to a law, business, medical, or other advanced academic or professional degree.
- **Non-degree Candidate** - an individual such as a post-doctoral fellow or a student enrolled in a "certificate program."
- * • **Non-Qualified Scholarship or Fellowship** - any amount received by an individual for incidental expenses such as room and board, travel, research, moving, and expenses for equipment and other items not required for either enrollment or attendance in a course of instruction. The** costs of benefits provided by the University also represent additional non-qualified amounts.
- **Qualified Scholarship or Fellowship** - any amount received by an individual as a scholarship or fellowship grant to be used for tuition required for enrollment at an educational institution and fees, books, supplies, and equipment required of *all* students in a course of instruction.
- **Qualified Tuition Reduction or Remission** - any reduction provided an employee of a qualified educational organization for the education of the employee at that organization or another such organization.
- **Scholarship Grant** - an amount paid for the benefit of an individual at an educational institution to aid in the individual's pursuit of studies.
- **Withholding Agent** - any individual or entity that makes a payment of scholarship or fellowship grant amounts either directly to a grant recipient or to a third party on the recipient's behalf, i.e., the entity who *actually disburses the funds*. The withholding agent is often an entity other than the grantor of the scholarship or fellowship grant.

III. SCHOLARSHIP AND FELLOWSHIP GRANTS - CITIZENS AND RESIDENT ALIENS

The IRS rules related to the taxation of scholarship and fellowship grants applicable to U.S. citizens also apply to

resident aliens.¹ Under these rules, resident aliens are subject to regular graduated income tax withholding rates on income received from all sources, *both within and outside the United States*, and may claim marital status and withholding exemptions on the same basis as U.S. citizens.

A. GENERAL RULE

Under Internal Revenue Code (IRC) 117, as amended by IRS Notice 87-31, no portion of a scholarship or fellowship grant awarded to a U.S. citizen or resident alien *degree candidate* for the purpose of study at an educational institution is required to be reported to the IRS **by the University**, unless the grant or a portion of the grant is considered wages.

B. LIMITATION - COMPENSATION FOR SERVICES

Any portion of a scholarship or fellowship grant that represents payment for the performance of teaching, research, or other services by the student, required as a condition of receiving such a grant, is considered wages for employment tax purposes, *regardless of whether all candidates for the degree are required to perform such services*. This rule applies to both cash payments and to the reduction of fees or tuition and related expenses (see Section VI below).

* ¹ Every non-U.S. citizen who will be receiving a scholarship or fellowship grant, educational assistance, or other type of payment must complete the UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding form. In most cases, residency status will be determined based on the information provided on this form. The UC W-8BEN is available on the Payroll Coordination and Tax Services web site, located at <http://www.ucop.edu/ucophome/cao/paycoord/taxation.html>. The form is also contained in AMC T-182-27.

III. SCHOLARSHIP AND FELLOWSHIP GRANTS - CITIZENS AND RESIDENT
ALIENS (Cont.)

B. LIMITATION - COMPENSATION FOR SERVICES (Cont.)

A grant represents compensation for services if either of the following apply:

- There is a requirement for past, present, or *future* teaching, research, or other employment services by the recipient; or
- The grant payment enables the recipient to "pursue studies or research *primarily for the benefit of the grantor.*"²

The following examples illustrate the application of these rules to arrangements involving payments for services.

Example 1: An individual receives a \$5,000 scholarship under a Federal program, which requires the recipient to perform future service as a Federal employee. The scholarship represents payment for services and must be included in the recipient's gross income as wages.

Example 2: An individual receives a \$10,000 scholarship from V Corporation and agrees to work for the corporation after graduation. The scholarship represents payment for future services and therefore the full amount must be included in the recipient's gross income as wages.

Example 3: An individual is awarded a fellowship to pursue a research project the nature of which is determined by the grantor. A paper that describes the research results, but which does not fulfill any course requirements, must be submitted to the grantor. The grantor reserves the right to publish the paper or otherwise use the results of the research. Thus, the fellowship represents payment

² A requirement that a recipient furnish periodic reports to the grantor for the purpose of keeping the grantor informed with respect to the general progress of the individual, however, is not considered the performance of services.

for services and must be included in the recipient's gross income as wages.

Example 4: An individual must perform services as a teaching assistant as a condition of receiving a qualified scholarship from a university. Such services are required of all candidates for a degree at this university. The amount of the scholarship is equal to the compensation paid by the university to teaching assistants who are part-time employees and not students. Thus, the scholarship represents payment for services and the entire amount must be included as wages in the recipient's gross income.

If only a portion of a payment represents compensation for services, the fair market value of the amount of the scholarship or fellowship grant (including any reduction in tuition or related expenses) allocable to such services must be determined for tax reporting purposes.

Example 1: As a condition of receiving a \$6,000 scholarship from a university, an individual (non-employee) performs services as a researcher while other researchers who are **not** scholarship recipients receive payments for the year of \$2,000 for similar services. Thus, the university allocates \$2,000 of the scholarship as compensation for services, which must be included in the recipient's gross income as wages. If the individual can establish expenditures of \$4,000 for qualified tuition and related expenses, then the remaining \$4,000 of the scholarship is excludable from gross income as a qualified scholarship.

Example 2: An individual employed as a research assistant to a faculty member at a university receives a salary that represents reasonable compensation for the position of research assistant. In addition to salary, the individual receives a qualified tuition reduction for

III. SCHOLARSHIP AND FELLOWSHIP GRANTS - CITIZENS AND RESIDENT
ALIENS (Cont.)

B. LIMITATION - COMPENSATION FOR SERVICES (Cont.)

enrollment in an undergraduate course. The individual's salary is included in gross income; thus, because the qualified tuition reduction does not represent payment for services the amount is not includable in gross income. (See Section IV for information on qualified fee or tuition reductions provided to employees.)

1. Determination of Fair Market Value

To determine the "fair market value" of such services, the compensation in question may be compared to any of the following:

- Compensation paid for similar services performed by non-scholarship students with qualifications similar to those of the recipient, but who did not receive a grant or fee or tuition remission;
- Compensation paid for comparable services performed by full- or part-time employees who are not students;
- Compensation paid by other educational organizations for similar services performed either by students or other employees.

2. Tax Treatment of Compensation Portion

Any amount determined to be wages must be included in the recipient's gross income. Such amounts are paid through the Payroll Personnel System (PPS) and are subject to withholding for Federal and State income taxes. However, the wages of student employees who are enrolled at least half-time are not subject to FICA taxes (see Accounting Manual chapter P-196-30, Payroll: OASDI and Medicare Contributions, Appendix III, for information on student employees who do not meet this requirement).

The tax status of any additional amount received from the same grantor that is not considered

compensation for services is determined in accordance with the rules of IRC 117.

C. RECIPIENT TAX REPORTING

The IRS does not require the University to report scholarship or fellowship grants for United States citizens or resident aliens³; however, recipients of nonqualified scholarship and fellowship amounts should be advised that such amounts are taxable and that it may be advisable for the recipients to make estimated tax payments. (See Exhibit D for Sample Letter to Students).

*

Under IRC 117, the determination of whether a scholarship or fellowship grant must be reported to the IRS **by the recipient** is based on whether the grant (or a portion of the grant) is qualified or non-qualified and whether the recipient is a degree or a non-degree candidate.

1. Degree Candidates

Qualified Amounts - The portion of a qualified scholarship or fellowship grant used for tuition and fees and related course requirement expenses⁴ is excludable from the recipient's gross income if the recipient is a candidate for a degree for the purpose of studying or conducting research at an educational institution.

Nonqualified amounts - The portion of a scholarship or fellowship grant received for incidental expenses, e.g., room and board, travel, research, benefits, and expenses for equipment and other items not required for either enrollment or attendance in a course of instruction, is not excludable from gross income. Therefore, such expenses are taxable.

*

³ The instructions for IRS Form 1099-MISC state that this form (or any other form) should **not** be used to report scholarship or fellowship grants.

⁴ Such expenses must be required of **all** students in the particular course of instruction in order to be considered nontaxable.

III. SCHOLARSHIP AND FELLOWSHIP GRANTS - CITIZENS AND RESIDENT
ALIENS (Cont.)

C. RECIPIENT TAX REPORTING (Cont.)

Tax Reporting - Although *neither the qualified nor the nonqualified portion of such grants is subject to income tax reporting or withholding*, any amount used for *nonqualified* expenses must be reported **by the recipient** on his or her U.S. and California Income tax return.

2. Non-Degree Candidates and Post-Doctoral Fellows

No amount of a scholarship or fellowship grant received by a non-degree candidate (including a post-doctoral fellow) is considered qualified; *therefore, the entire amount of the grant is taxable and must be reported by the recipient on his or her tax return.*

IV. SCHOLARSHIP AND FELLOWSHIP GRANTS - NONRESIDENT ALIENS

Nonresident aliens⁵ are subject to different reporting and withholding requirements than U.S. citizens and resident aliens.

A. U.S. TAX WITHHOLDING AND REPORTING OBLIGATIONS

Under IRC 1441, the University as the withholding agent is required to report income and withhold Federal income tax from all income payments made to or on behalf of a nonresident alien, unless the payment is excluded under one of the following exemptions:

- The income is not U.S. source income;
 - The individual is covered by a tax treaty exemption;
- or

⁵ As determined based on the UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding form (refer to AMC T-182-27).

- The grant is excluded under the Internal Revenue Code.

* *In general, all other payments, except for wage payments reportable on Form W-2, must be reported to the IRS on Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, regardless of whether withholding is required.*

All non-wage payments made to a nonresident alien that have been determined to be taxable are subject to income tax withholding at a 30 percent rate. However, a special 14 percent rate applies to any taxable scholarship or fellowship grants paid to F or J visa holders.

B. DETERMINING TAXABLE INCOME

1. Sourcing Rules

Under Reg. Sec. 1.863-1(d), the source of a scholarship or fellowship grant is determined based on the grantor's residence. Thus, grants made by a U.S. resident are treated as U.S. source income by the recipient and may or may not be taxable, depending on whether any statutory income exclusion (e.g., IRC 117) or tax treaty provision exempts the payment from tax (see below).

Grants made by a foreign government, an international organization, or a person other than a U.S. person are considered foreign source income. *The University is not required to withhold or report on such payments.*

Special Rule - Under a special rule provided in Reg. section 1.863-1(d)(2), a grant made by a U.S. grantor to a nonresident alien studying *outside the United States* is treated as income from non-U.S. sources and is not subject to U.S. tax withholding or reporting.

IV. SCHOLARSHIP AND FELLOWSHIP GRANTS - NONRESIDENT ALIENS
B. DETERMINING TAXABLE INCOME (Cont'd.)

2. U.S. Income Tax Treaty Exemption

When the United States enters into a tax treaty agreement with a foreign country, the *tax treaty agreement supersedes Federal income tax laws*. However, the existence of an income tax treaty does not mean that an individual will *automatically* qualify for exemption from taxation or be eligible for reduced withholding rates. The individual must meet all the requirements set forth in the treaty and complete all applicable tax treaty forms, including the UC W-8BEN, Certificate of Foreign Status for Federal Tax Withholding form. For tax purposes, nonresident aliens are required to complete IRS Form W-9, Request for Taxpayer Identification Number and Certification.

*

For information on the UC W-8BEN and tax treaty provisions that most frequently apply to nonresident aliens at the University, refer to AMC T-182-27.

*

UC W-8BEN and tax treaty statements for students, teachers, and researchers are also available on the Payroll Coordination and Tax Services web site, which is located at the following address: <http://www.ucop.edu/ucophome/cao/paycoord/>

3. Qualified Scholarship Exclusion

Once it has been established that a scholarship or fellowship grant to a nonresident alien is a U.S. source payment and that no tax treaty applies, the University must determine whether the payment is subject to withholding, and whether the grant or any portion of the grant represents **compensation for services** (see section III.B for the requirements of this limitation).

Federal income tax withholding rules for nonresident alien grant recipients depend on whether the recipient is a degree or a non-degree candidate.

a. Degree Candidates

Qualified Amounts - Under IRC 117, the qualified portion of an undergraduate or graduate scholarship or fellowship grant made to a nonresident alien *degree candidate*, who is temporarily in the United States under an F-1 or J-1 visa, is not subject to Federal income tax withholding or reporting.

Nonqualified Amounts - Payments for expenses other than those specified above (e.g., room, board, or incidental expenses) are subject to Federal income tax withholding at 14 percent, unless a tax treaty exception applies, and must be reported on Form 1042-S (see section C below). Payments for immigration related expenses are also subject to withholding. Refer to AMC T-182-27, for information on immigration-related expenses (e.g., expenses for visa applications and renewals for J, H, O, and TN visa holders and expenses to obtain temporary or permanent residence status) paid on behalf of University employees, prospective University employees, and other individuals.

b. Non-Degree Candidates and Post-Doctoral Fellows

If the University determines, based on information provided in the recipient's UC W-8BEN form, that a nonresident alien is *not a candidate for a degree*, no exclusion from Federal income tax withholding is allowed, unless a tax treaty exemption is applicable. Such payments, including payments excludable under a tax treaty, are subject to reporting on Form 1042-S.

*

IV. SCHOLARSHIP AND FELLOWSHIP GRANTS - NONRESIDENT ALIENS (Cont.)

C. WITHHOLDING AND REPORTING PROCEDURES

The procedures detailed below are applicable to the following types of U.S. source scholarship and fellowship grant payments:

- The non-qualified portion of a grant payment made to a degree candidate,
- All payments made to non-degree candidates and post-doctoral fellows, and
- Any portion of a grant payment that represents compensation for services.

These procedures apply only to nonresident alien grant recipients whose residency status has been established in accordance with the rules detailed in AMC T-182-27.

1. Tax Treaty Benefits

In order to claim exemption from withholding (or a partial exemption) based on a tax treaty between the United States and their home country, all nonresident aliens who receive a U.S. source scholarship or fellowship grant must complete a form UC W-8BEN.

*

The completed form must be reviewed to ensure that the information provided by the recipient is complete and accurate. In addition, the tax treaty benefit eligibility period must be monitored for each recipient who files a form UC W-8BEN. (The form is valid for three years.)

*

After the tax treaty benefit eligibility period has expired, tax must be withheld on the taxable portion of the grant. Although the University is not required to file the UC W-8BEN with the IRS, it must be kept on file for at least four years after the end of the last tax year covered by the exemption.

*

* Upon receipt of a completed Statement of Citizenship Status form and a UC W-8BEN, the accounting office may provide a completed Withholding Tax Status--Scholarship/Fellowship Recipients form (Exhibit A) to the individual, notifying him or her of the applicable withholding category.

2. Tax Withholding

Under IRC 1441(b), scholarship or fellowship grant recipients who hold an F-1 or J-1 visa, or exchange visitors who are in the United States under the U.S. Information and Educational Exchange Act, are subject to withholding at the 14 percent rate.

Reduced Withholding - However, since in some cases the applicable withholding rate may exceed a grant recipient's actual tax liability, the IRS has provided a reduced withholding procedure (Revenue Procedure 88-24) which permits such recipients to take into account any IRC 162 trade or business expenses.⁶ Thus, because foreign students and scholars⁷ are considered to be engaged in a U.S. trade or business, certain expenses connected with and attributable to income may be deducted from the taxable portion of a grant.⁸

Conversely, expenses attributable to income that is *exempt from tax* may not be deducted. For example, a grant recipient who received a \$10,000 grant, \$5,000 of which is excludable as qualified tuition and related expenses, may only deduct up to \$5,000 of his or her trade or business expenses for that year.

⁶ IRC 162 deductions include travel, meals, lodging, and other living expenses incurred while away from home.

⁷ The reduced withholding procedures generally apply only to payments made to nonresident alien scholarship and fellowship recipients who hold an F-1 or J-1 visa.

⁸ However, such expenses can only be claimed if the nonresident alien's stay in the United States is anticipated to be for one year or less.

IV. SCHOLARSHIP AND FELLOWSHIP GRANTS - NONRESIDENT ALIENS (Cont.)
C. WITHHOLDING AND REPORTING PROCEDURES (Cont.)
2. Tax Withholding (Cont.)

In order to claim reduced withholding, nonresident alien grant recipients must complete a Form UC W-4NR, University of California Nonresident Alien Scholarship and Fellowship Recipients Federal Withholding Allowance Certificate (Exhibit B) on an annual basis. If the actual Section 162 expenses are known at the time the UC W-4NR is completed, these amounts may be allowed as a deduction. If not, an amount of \$18 per day should be used. (Because nonresident aliens are allowed to claim only one personal exemption, Section 162 deductions on the UC W-4NR should be coordinated with payroll to ensure that such claim does not cause underwithholding.)

In addition, all such recipients are required to claim single marital status (regardless of actual marital status) and one personal exemption (regardless of the actual number of dependents). This exemption must be prorated by the number of days the recipient is present in the United States.

Exceptions - Certain exceptions to the requirement that an individual claim single and one personal exemption are applicable to the following groups:

- **Residents of Canada or Mexico** - A recipient who is a resident of Canada or Mexico must claim single marital status, but may claim personal exemptions based on the rules for a U.S. citizen.

- **Residents of South Korea** - A recipient who is a resident of South Korea must claim single status but may claim additional exemptions for a spouse and children under certain conditions. (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.)

- **U.S. National** - Residents of American Samoa or the Northern Mariana Islands who choose to become a U.S. national may claim an additional daily exemption amount for a spouse and each dependent.
- **Students from India** - These students are entitled to claim one additional allowance for a spouse, based on benefits set forth in the U.S.-India income tax treaty.

3. Payments Made to Third Parties

Under IRC 1461, a withholding agent is liable for the income tax that must be withheld from payments made to or on behalf of a nonresident alien (e.g., tuition, travel agents, housing providers, etc.). Thus, if it is determined that a payment is subject to withholding, the University must withhold at the appropriate rate on the amount of any payment subject to withholding (or an adjusted amount if the reduced withholding procedure is used), **even if there is nothing from which to withhold.**

Accordingly, if withholding from a particular payment is not possible, the withholding agent can either withhold tax from other payments made to the individual or pay the tax from its own funds. However, under U.S. tax law, the payment of an individual's tax liability constitutes additional income to the individual and the recipient must pay tax on the tax paid by the withholding agent.

The following formula is used to determine the 'grossed up' taxable amount:

Example: Assume a taxable grant of \$20,000 and tax at the 14 percent rate, or \$2,800.

IV. SCHOLARSHIP AND FELLOWSHIP GRANTS - NONRESIDENT ALIENS (Cont.)
C. WITHHOLDING AND REPORTING PROCEDURES (Cont.)

$$\begin{array}{rcl}
 W & = & \text{Gross Up Amount} \\
 \\
 W & = & \frac{\text{Grant Amount}}{1 - (\text{tax rate})} \\
 \\
 & & \$20,000 \\
 W & = & \frac{\text{-----}}{1 - (.14)} \\
 \\
 & & \$20,000 \\
 W & = & \frac{\text{-----}}{.86} = \$23,256
 \end{array}$$

The actual taxable amount of the grant is \$23,256.

4. Compensation for Services

Compensation paid to a nonresident alien employee⁹, including any portion of a grant that represents payment for services,¹⁰ is subject to graduated withholding rates, unless the payment is exempt under an income tax treaty.

Refer to AMC T-182-27, sections III.C and IV.C for the applicable employment provisions and Federal income tax withholding and reporting procedures for wage payments made to nonresident aliens.

⁹ Note: Compensation is sourced at the location where the services are performed.

¹⁰ See section III.B of this chapter for the rules related to making such a determination.

****V. HEALTH INSURANCE**

For the requirements related to the "J" visa exchange visitor program refer to AMC T-182-27, Taxes: Federal Taxation of Aliens (section III.E.).

VI. EMPLOYEE EDUCATIONAL ASSISTANCE

The rules detailed in this section apply to educational assistance for employees who are U.S. citizens, resident aliens, or nonresident aliens, for courses taken under the Reduced Fee Enrollment Policy, professional development programs, or for job-related courses. Such assistance may be excludable from income under either IRC 117(d), IRC 127, or IRC 162. (Exhibit C contains an Employee Educational Assistance Tax Determination Form, which should be submitted with an employee's application for fee or tuition reduction or with a request for reimbursement of job related educational expenses.)

A. QUALIFIED FEE OR TUITION REDUCTION

IRC 117(d) contains a special rule, which provides that a qualified fee or tuition reduction is excludable from income if it meets the rules detailed below. To qualify for the exclusion, the reduction must be provided by a qualified educational institution to its employees for their education.¹¹ This exclusion is permitted for employees for education at either the undergraduate or graduate level; **however, separate rules apply for each level.**

¹¹ In addition to current employees, the following individuals are treated as employees for purposes of IRC section 117(d): (a) any individual who was formerly employed by the employer and who separated from service with such employer by reason of retirement or disability; (b) any widow or widower of any individual who died while employed by the employer (or while a retiree as described in (a)); or (c) the spouse and dependent children of an employee. Fee or tuition reductions provided to other individuals (e.g., a relative or friend of an employee) are taxable.

VI. EMPLOYEE EDUCATIONAL ASSISTANCE (Cont.)

A. QUALIFIED FEE OR TUITION REDUCTION (Cont.)

In addition, to be considered excludable such reductions must not represent compensation for services (refer to section III.B for guidance in determining whether a payment represents compensation for services).

- **Undergraduate Degree Candidate**

** A qualified employee fee or tuition reduction for a degree candidate **at the undergraduate level** is not taxable or reportable. The taxable exclusion is unlimited as to the dollar amount. The undergraduate education may be at UC or another educational institution.¹²

Tuition reductions are not reportable on a Form 1099 for U.S. citizens or resident aliens, or on a Form 1042-S for nonresident aliens.

- **Graduate Level - Research Assistants (RAs), Teaching Assistants (TAs), and Equivalent Titles¹³**

A qualified employee fee or tuition reduction for a *degree candidate* at the graduate level¹⁴ is not taxable if the reduction is provided by a qualified educational institution to a graduate who performs teaching or research activities for that institution. (See section III.B if any portion of

¹² All University Extension courses are deemed to be at the undergraduate level for tax purposes.

¹³ The term "equivalent titles" includes such classifications as Lab Assistant, Graduate Student Researcher, Nursery School Assistant, or Graduate Reader or Tutor.

¹⁴ All recipients must be registered graduate students engaged in research or teaching activities.

the reduction represents payment for teaching, research, or other services required of the recipient as a condition for receiving such a reduction.)

Tax reporting is not required for U.S. citizens, resident aliens or for nonresident aliens.

- **Graduate Level - Employees Other than RAs, TAs, and Equivalent Titles**

A qualified fee or tuition reduction or reimbursement for employees (both faculty and staff) at the graduate level, other than RAs, TAs, and equivalent titles, is not exempt from taxation under IRC 117(d). However, such educational assistance may be exempt from taxation under IRC 127 (see section VI.B below).

B. SECTION 127 EDUCATIONAL ASSISTANCE

Under IRC Section 127, educational assistance provided to an employee is not taxable, up to a limit of \$5,250 per calendar year, and includes payment for both undergraduate and graduate level courses. Educational assistance under Section 127 includes tuition, fees, books, supplies, and equipment, but does not include the payment for, or provision of, tools or supplies that may be retained by the employee after completion of a course of instruction. Educational assistance also does not include any payment for, or provision of any other benefits with respect to, any course involving sports, games, or hobbies.

The University has a separate written educational assistance plan for the exclusive benefit of its employees, in accordance with the requirements of Section 127. The plan applies only to educational assistance for graduate level courses, up to the statutory limit of \$5,250 per calendar year, that are not exempt from taxation under either IRC 117 or IRC 162. Appendix F contains a copy of the Section 127 Educational Assistance Plan issued in June, 2002.

VI. EMPLOYEE EDUCATIONAL ASSISTANCE (Cont.)

C. REIMBURSEMENT OF EMPLOYEE EDUCATION EXPENSES RELATED
TO CURRENT JOB

Under IRC 162, education expenses incurred by an employee either to *maintain or improve* skills required in the employee's current job; or to meet the express requirements of the employer; or the requirements of law or regulations, imposed as a condition to retaining the employee's salary, status, or employment; may be reimbursed tax-free. Such expenses include tuition, books, supplies, lab fees, and certain travel and transportation costs. These amounts are not taxable or reportable, even if the study may lead to a degree (including a graduate degree). **Additionally, any payment or reimbursement of education expenses made to nonresident alien employees are not reportable on a Form 1042-S.**

Amounts that are not adequately substantiated will be subject to income tax reporting and withholding.

An employee's education expenses are **taxable** if the education is:

- Needed to meet the minimum requirements for the employee's present employment; or
- Undertaken to fulfill general education aspirations or for other personal reasons; or
- Part of a program of study that will lead to qualifying the employee for a new trade or business, such as a Phd., Medical Doctor, Juris Doctor, or CPA.

*

**

See Exhibit C, University of California Employee Educational Assistance Form.

**VII. TAXATION OF HEALTH BENEFITS PROVIDED TO POSTDOCTORAL
EMPLOYEES, FELLOWS, AND PAID DIRECTS

Effective January 1, 2005, a new Postdoctoral Scholar Benefits Plan was made available to the following University of California postdoctoral scholars:
Postdoctoral Scholar-Employee (Title Code 3252),
Postdoctoral Scholar-Fellow (Title Code 3253), and
Postdoctoral Scholar-Paid Direct (Title Code 3254).

The taxability of health benefits provided by the University to a postdoctoral scholar depends on whether the recipient of the benefits is an employee or a fellow:

- Employees - Health benefits provided by the University to both U.S. citizen and nonresident alien Postdoctoral Employees (TC 3252) and their dependents are not taxable for U.S. or State purposes. Benefits furnished to the domestic partner of a Postdoctoral Employee, however, are taxable unless the domestic partner qualifies as a dependent of the employee. The imputed income associated with these benefits is calculated by the Payroll/Personnel System (PPS) in accordance with the procedures invoked for other University employees, i.e., the amount of any additional premiums paid by the University, less any amounts paid by the employee, will be treated as imputed income.
- Fellows - Health benefits provided by the University to Postdoctoral Fellows (TC 3253) and Paid Directs (TC 3254) and their dependents are subject to U.S. income tax with respect to the premiums that are paid by the University, less any amounts paid by the recipient. Benefits provided to the domestic partner of a Postdoctoral Fellow or Paid Direct also are taxable whether or not the domestic partner qualifies as a dependent.

U.S. Citizens and Residents

Benefits paid for by the University that are provided to Postdoctoral Fellows (TC 3253) and Paid Directs (TC 3254) or to their dependents who are U.S. citizens or resident aliens are subject to income tax since these amounts, less any amounts paid by the postdoctoral scholar, represent additional non-qualified expenses. Although these

**VII. TAXATION OF HEALTH BENEFITS PROVIDED TO POSTDOCTORAL
EMPLOYEES, FELLOWS, AND PAID DIRECTS (Cont.)

benefits are taxable for purposes of U.S. and State income taxes, they are not subject to FICA taxes since the individuals are not receiving wages for performing services. In addition, the University is not required to report these payments to the IRS or withhold tax on the payments.

Postdoctoral Fellows (TC 3253) and Paid Directs (TC 3254) are required to self-report the total annual value of their fellowships, including benefits for themselves and their dependents, when they prepare their U.S. and California income tax returns. Campuses should advise Postdoctoral Fellows and Paid Directs about this responsibility. See Exhibit E, Sample Letter to Postdoctoral Scholars.

Nonresident Aliens

As a general rule, the value of benefits provided to nonresident alien Postdoctoral Fellows (TC 3253) and Paid Directs (TC 3254) and their dependents is subject to U.S. income tax in the same manner as the provision of these benefits to U.S. residents and resident aliens. If, however, the individual is from a country that has entered into a tax treaty with the U.S. and if that tax treaty provides that fellowship income is not taxable, the individual is exempt from tax on the benefit and the University is not required to withhold tax. But even though nontaxable, the value of the benefit must be reported to the IRS.

In those situations where a treaty exemption is unavailable and the value of the benefit is taxable, the PPS will calculate the imputed income related to the medical, dental, and vision contributions paid by the University on behalf of these nonresident alien individuals. Campuses will need to reduce the calculated value of the imputed income by the amount, if any, that the individual Postdoctoral Fellow (TC 3253) or Paid Direct (TC 3254) pays out-of-pocket (i.e., reimburses the University) for the University benefits contribution.

- ** The campus accounting office must withhold tax on the imputed income and report the income and withholding on a Form 1042-S prepared for each individual. Such withholding will be taken from the stipend payments made to the Postdoctoral Fellows (TC 3253). However, the accounting office will need to bill Postdoctoral Paid Directs (TC 3254) for this withholding since their stipends are not paid by the University. Withholding will be calculated at either 14% for J-1 visa holders (and any F-1, M-1, or Q-1 visa holders) or 30% for all other visa holders. Although no State withholding is required with respect to these benefits, the calculated imputed income is reportable on a Form 592-B.

VIII. CALIFORNIA STATE TAX

In general, California does not distinguish between U.S. citizens, resident aliens, and nonresident aliens for State income tax withholding purposes. Thus, under the California Personal Income Tax regulations, any individual, including a nonresident alien, who spends more than nine months of the tax year in California is presumed to be a resident of the State and subject to State income tax withholding. In addition, since California does not generally conform to Federal tax treaties, residents of foreign countries who perform services in California or who receive income from California sources are usually subject to State income tax withholding. Accounting Manual chapter D-371-77, Disbursements: State Tax Withholding from Nonwage Payments to Nonresidents of California, and Appendix A of this chapter contain information regarding State taxation of the types of payments covered in this chapter. For information on income that represents payment for services, see Accounting Manual chapter P-196-77, Payroll: State Tax Withholding from Employees.

IX. RESPONSIBILITIES

Department - It is the responsibility of the department or unit awarding the scholarship or fellowship grant, tuition reduction, or educational assistance to determine the residency status of all recipients and to forward the required forms to the accounting office.

IX. RESPONSIBILITIES (Cont.)

It is the responsibility of the department to inform grant recipients that nonqualified portions of a grant are considered taxable income.

Accounting Office - The accounting office (withholding agent) is responsible for ensuring that any payments made for items discussed in this chapter are in compliance with
* IRS and ICE rules and regulations, as follows:

- The U.S. residency status of every payee must be identified;
- The type of payment being made must be identified;
- A determination must be made regarding whether the payment is subject to withholding and/or reporting;
- The appropriate withholding rate must be determined if the payee is a nonresident alien.

X. REFERENCES

Accounting Manual chapters:

<u>D-371-77</u>	Disbursements: State Tax Withholding from Nonwage Payments to Nonresidents of California
<u>P-196-30</u>	OASDI and Medicare Contributions
<u>P-196-77</u>	Payroll: State Tax Withholding from Employees
<u>S-772-33</u>	Student Fees: Exemptions, Waivers, and Special Provisions
<u>T-182-27</u>	Taxes: Federal Taxation of Aliens

Internal Revenue Code and Regulations:

Section 117, Qualified Scholarships
Proposed Regulation 1.117-6, Qualified Scholarships
Section 127, Educational Assistance Programs
Section 132, Certain Fringe Benefits

Section 162, Trade or Business Expenses
Section 1.162-5, Expenses for Education
Section 1.863, Special Rules for Determining Source
Section 1441, Withholding of Tax on Nonresident Aliens
Section 1.1461-2, Return of Tax Withheld
Section 3121, Employment
Section 7701(b), Definition of Resident Alien and
Nonresident Alien

IRS Publications and Notices:

<u>Publication 515</u>	Withholding of Tax on Nonresident Aliens and Foreign Corporations
<u>Publication 519</u>	U.S. Tax Guide for Aliens
<u>Publication 901</u>	U.S. Tax Treaties
** <u>Publication 970</u>	Tax Benefits for Education
IRS Notice 87-31	Taxation of Grants
IRS Notice 96-68	Educational Assistance Programs

Revenue Rulings:

Revenue Ruling 60-378
Revenue Ruling 88-42
Revenue Ruling 89-67

U.S. Tax Court, Marc W. Spiegelman v. Commissioner of
Internal Revenue

Donna E. Kepley, Nonresident Alien Tax Compliance: A Guide
for Institutions Making Payments to Foreign Students,
Scholars, Employees, and Other International Visitors.

Personnel Policies for Staff Members:

Policy 50, Professional Development
Policy 51, Reduced Fee Enrollment

Associate Vice President Joseph A. Pastrone, Memorandum to
Assistant Vice Chancellor Rebok on the Tax Status of
National Research Service Awards (NRSA), July 18, 1984.

Director Donald L. Alter, Memorandum to Accounting Officers
on Tax Treatment of Scholarships and Fellowships Under the
Tax Reform Act of 1986, July 6, 1987.

X. REFERENCES (Cont.)

Director Donald L. Alter, Memorandum to Accounting Officers on Tax Treatment of Scholarships and Fellowships Granted to Non-Resident Aliens Under the Tax Reform Act of 1986, August 28, 1987.

Director Donald L. Alter, Memorandum to Accounting Officers on Tax Treatment of Scholarships and Fellowships Granted to Non-Resident Aliens Under the Tax Reform Act of 1986, September 25, 1987.

Director Donald L. Alter, Memorandum to Accounting Officers on Tax Treatment of U.S. Source Grants or Scholarships Granted to Non-resident Aliens Under the Tax Reform Act of 1986, June 14, 1988.

Director Donald L. Alter, Memorandum to Accounting Officers on Tax Status of Educational Assistance Payments, July 5, 1990.

Director Donald L. Alter, Memorandum to Accounting Officers on Tax Reporting of Scholarship and Fellowship Grants to Non-Degree Candidates, March 10, 1992.

Vice President Anne C. Broome, Memorandum to Controllers announcing the adoption of the University of California Section 127 Educational Assistance Plan, June 28, 2002.

University of California Section 127 Educational Assistance Plan, July 1, 2002.

Outside Counsel Bertrand M. Harding, Jr., Email to Manager Michael O'Neill, February 8, 2005

Historical note: Original Accounting Manual chapter published 3/31/99. Revised 6/30/99, 12/30/99, 6/30/00, 12/30/00, 6/30/01, 12/30/01, 6/30/02, 3/31/03, 6/30/04; 6/30/05, 6/30/06, 3/31/07, 3/31/08, 2/28/09, 9/30/09, and 6/30/10; analyst--John Barrett.

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 29

APPENDIX A

*

TAX TREATMENT OF SCHOLARSHIP AND FELLOWSHIP
GRANTS, EDUCATIONAL ASSISTANCE, AND POSTDOCTORAL HEALTH BENEFITS

DESCRIPTION OF PAYMENT	TAX CODE (1)	SUBJECT TO DEDUCTIONS FOR						TAX ID # REQ (19)	REPORTED ON	
		FED TAX	STATE TAX	UCRP (2)	OASDI /MED (3)	WORK COMP INSUR	UNEMP INSUR (4)		FED FORM	STATE FORM
<u>Scholarship & Fellowship Grants</u>										
Degree Candidate - Citizen or Resident Alien. Amount spent for tuition, fees, and related expenses (5)(15)	0	No	No	No	No	No	No	No	-	-
Degree Candidate - Citizen or Resident Alien. Amount in excess of qualified tuition and related expenses (e.g., fees, books, supplies, and required equipment) (5)(15)	0	No (6)	No (7)	No	No	No	No	No	- (6)	- (7)
Degree Candidate - Nonresident Alien Holding F or J Visa: Amount spent for tuition, fees, and related expenses	0	No	No	No	No	No	No	No	No	-
Degree Candidate - Nonresident Alien Holding F or J Visa: Amount in excess of qualified tuition and related expenses (e.g., fees, books, supplies, and required equipment) (5)	9	Yes (8)	Yes (7)	No	No	No	No	Yes	- 1042S	- (7)
Post-Docs and other Non-Degree Candidates - Citizen or Resident Alien (5)(9)(15)	0	No (6)	No (7)	No	No	No	No	No	- (6)	- (7)
Post-Docs and other Non-Degree Candidates - Nonresident Alien Holding F or J Visa (5)(9)(15)	9	Yes (8)	Yes (7)	No	No	No	No	Yes	- 1042S	- (7)
Degree Candidate Performing Services - Citizen or Resident Alien	(16)	Yes	Yes	No	(17)	Yes	Yes	Yes	W-2	W-2
Degree Candidate Performing Services - Nonresident Alien	(16)	Yes	Yes	No	(17)	Yes	Yes	Yes	W-2/ 1042S (18)	W-2
<u>Employee Educational Assistance</u>										
Qualified Employee Fee or Tuition Reduction: Degree Candidate, Undergraduate Level (10)	0	No	No	No	No	No	No	No	-	-
Qualified Employee Fee or Tuition Remission. Degree Candidate, Graduate Level - RAs, TAs, and equivalent titles enrolled at UC (10)(11)	0	No	No	No	No	No	No	No	-	-
Qualified Employee Fee or Tuition Reduction or Reimbursement. Graduate Level - Employees other than RAs, TAs, and equivalent titles, up to \$5,250 per year (12)	0	No	No	No	No	No	No	No	-	-
Qualified Employee Fee or Tuition Reduction or Reimbursement: Graduate Level - Employees other than RAs, TAs, and equivalent titles, exceeding \$5,250 per year	8	Yes (13)	Yes (13)	No	Yes	No	No	Yes	W-2	W-2
Reimbursement of Employee Education Expenses Related to Current Job: Undergraduate and Graduate Level (14)	0	No	No	No	No	No	No	No	-	-

APPENDIX A (Cont.)

Notes:

1. Tax Codes -- The appropriate tax code must be used to indicate the tax status of each transaction. Following are the codes to be used for the payments discussed in this chapter:

<u>Tax Code</u>	<u>Description</u>
0	Payments that are not reportable for Federal tax purposes.
8	Vendor check payments made to employees which are reportable on Form W-2.
9	Payments reportable on Form 1042-S made to nonresident aliens.

On January 1, 2001, new regulations pertaining to payments made to nonresident aliens under Internal Revenue Code Sections 1441-1464 went into effect. Scholarship and fellowship payments, which are nontaxable (tuition and fees required for enrollment, and fees, books, supplies and equipment required for a course), are no longer reportable to the IRS. This change applies to nontaxable scholarship and fellowship payments that are made in 2001 and later.

- *2. Deductions for retirement apply only to employees who are contributing members of a defined benefit retirement system, e.g., UCRS, PERS, etc.
3. Deductions for OASDI and/or Medicare apply only to those employees who meet the eligibility requirements for OASDI and/or Medicare (see Accounting Manual chapter P-196-30, Payroll: OASDI and Medicare Contributions).
4. Unemployment insurance benefits are applicable only to covered employees (see Accounting Manual chapter P-196-77.5, Payroll: Unemployment Insurance).
5. Refer to IRS Publication 519.

6. Although the University is not required to withhold or report income, departments should advise students that such amounts are taxable and that it may be advisable to make estimated tax payments. However, scholarship and fellowship grants are not considered wages for FICA purposes (as confirmed by the Tax Court, in *Marc W. Spiegelman v. Commissioner*, 1994) unless section 117(c) applies, i.e., the grant recipient is required to perform teaching, research, or other services as a condition of receiving the grant.
7. The non-excludable portion of scholarship and fellowship grant payments to nonresidents of California is taxable. However, the state of California only requires reporting on the portion of a scholarship or fellowship grant that is attributable to services **performed in California** (see also Accounting Manual chapter D-371-77, Disbursements: State Tax Withholding from Nonwage Payments to Nonresidents of California).
8. Amounts granted after August 16, 1986 to nonresident aliens holding an F, J, or M visa are subject to Federal income tax withholding at a rate of 14% (see Accounting Manual chapter T-182-27, Taxes: Federal Taxation of Aliens).
9. According to the General Counsel's Office, a student in a "certificate" program is not a candidate for a degree.
10. Under IRC Section 117(d), includes fee or tuition remission and other types of reduced fee enrollment authorized under University policy. Also includes cash grants for the payment of tuition and fees required for enrollment. Undergraduate education may be at UC or another educational institution.
11. The exclusion for graduate level employees applies only to assistance provided to Research Assistants (RAs), Teaching Assistants (TAs) and equivalent titles that do not represent payment for services. Payments to RAs, TAs, and equivalent titles for services are taxable and are paid through the payroll system.

APPENDIX A (Cont.)

Notes: (Cont.)

12. The University has a written Section 127 Educational Assistance Plan, in accordance with IRC Section 127, effective July 1, 2002. Educational assistance under the Plan is tax-exempt up to \$5,250 per calendar year.
13. Tax withheld through payroll deduction.
14. Under IRC Section 162, deductible job-related expenses may include tuition, books, supplies, lab fees, and certain travel and transportation costs, even though the study may lead to a degree. Amounts paid that are not adequately substantiated will be subject to income tax reporting and withholding.
15. Includes National Research Service Awards, which are treated, for tax purposes, in accordance with the rules for scholarship or fellowship grants.
16. Payments made through the PPS.
17. The wages of students who are enrolled less than half-time, or who are not enrolled during the summer, are subject to Defined Contribution Plan/Medicare withholding. Refer to Accounting Manual chapter P-196-30, Payroll: OASDI and Medicare Contributions, for information on student FICA withholding procedures.
18. The grant amount is reported on a Form 1042-S if the recipient is eligible to claim a tax treaty benefit; if not, the grant is reported on a Form W-2.
19. Either a social security number or an Individual Taxpayer Identification Number (ITIN). Refer to Accounting Manual chapter T-182-27, Taxes: Federal Taxation of Aliens, for more information.

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 33

**APPENDIX B

TAX TREATMENT OF POSTDOCTORAL HEALTH BENEFITS

DESCRIPTION OF PAYMENT	TAX CODE	SUBJECT TO DEDUCTIONS FOR					UNEMP INSUR	TAX ID # REQ	REPORTED ON	
		FED TAX	STATE TAX	UCRP	OASDI /MED	WORK COMP INSUR			FED FORM	STATE FORM
Employee - Citizen (1)	0	No	No	No	No	No	No	No	-	-
Employee - Nonresident Alien. (2)	0	No	No	No	No	No	No	No	-	-
Fellow - Citizen	0	No	No	No	No	No	No	No	-	-
Fellow-Nonresident Alien (3) (4)	9	Yes	No	No	No	No	No	Yes	1042S	592-B
Paid Direct-Citizen	0	No	No	No	No	No	No	No	-	-
Paid Direct -Nonresident Alien (3) (4)	9	Yes	No	No	No	No	No	Yes	1042S	592-B

Notes:

1. Imputed income due to the coverage of a domestic partner will be reported on the Form W-2 of the Postdoctoral employee.
2. Imputed income due to the coverage of a domestic partner will be reported on the Form 1042-S of a nonresident alien Postdoctoral Employee who is eligible to claim a tax treaty benefit; if not, the income is reported on a W-2.
3. Imputed income due to the coverage of a domestic partner will be reported on the Form 1042-S and Form 592-B of a nonresident alien Postdoctoral Fellow or Paid Direct.
4. If the individual is from a country that has entered into a tax treaty with the U.S. and that treaty contains an exclusion for fellowship payments, the individual is not subject to tax on the benefits, including domestic partner benefits, and no income tax withholding is required. The amount of the benefits is reported, however, on Form 1042-S and Form 592-B.

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 34

EXHIBIT A

UNIVERSITY OF CALIFORNIA, _____
Accounting Office

NON-DEGREE CANDIDATE
WITHHOLDING TAX STATUS--SCHOLARSHIP/FELLOWSHIP RECIPIENTS

Date _____

The information that 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 and the University is not required to withhold or report on any grant amounts that do not represent payment for the performance of services, however, such amounts are taxable
- You are a nonresident alien and amounts paid to you are subject to Federal income tax withholding at a rate of 30%.
- You are a nonresident alien who is temporarily in the United States under an F (Student) or J (Exchange Visitor) visa. Amounts paid to you are subject to Federal income tax withholding at a rate of 14%. You are allowed to claim:
 - One-personal allowance of \$ _____ per month.
- *** You are a resident of Canada, Mexico, or South Korea, or a U.S. national (i.e., a citizen of America Samoa or a Northern Mariana Islander who chose to become a U.S. national) and may claim an allowance for your spouse and each dependent.
- You are a student or a business apprentice who is eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty and can claim additional withholding allowances for the standard deduction and your spouse. In addition, you can claim an additional withholding allowance for each dependent who has become a resident alien.

Regardless of your Federal income tax status, you are subject to California State income tax on amounts received 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. You may contact the California Franchise Tax Board at: <http://www.ftb.ca.gov/> or telephone (800) 852-5711.

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 35

* EXHIBIT B

Form UC W-4NR

2009

UNIVERSITY OF CALIFORNIA
Nonresident Alien Scholarship and Fellowship Recipients
Federal Withholding Allowance Certificate

This form should be completed by a nonresident alien recipient of a U.S. source grant or scholarship who is entitled to reduced withholding on the taxable part of his or her grant or scholarship. However, this form should not be completed by a nonresident alien who is married to a citizen or resident of the U.S. and who elects to file a joint return. In addition, do not complete this Form UC W-4NR unless both of the following statements apply to you:

- I am a nonresident of the U.S. currently in the U.S. under an F or J visa. If this statement applies to you, check the appropriate box:
 F J
- One of the following statements applies (check the appropriate box):
 I have been in the U.S. for more than one tax year and have filed a U.S. income tax return for the previous year.
 I have not been in the U.S. long enough to have to file a return, but will file a timely U.S. tax return for the current year.

Enter the name of the country of your residency here _____.

1. Type or print your first name, middle initial, and last name		2. Taxpayer Identification Number	
3. Home Address (number and street)		City or town, state, and Zip code	
4. Marital Status: Single (See Instructions)		5. If your last name differs from that on your social security card, check here and call 1-800-772-1213 for a new card -----> <input type="checkbox"/>	

ANNUAL REDUCED WITHHOLDING WORKSHEET

- A - Personal Exemption:**
Enter the prorated amount of the personal exemption for the tax year to which the reduced withholding applies. Refer to instructions for Line A. A \$ _____
- B - Away-from-Home Expense:**
Enter the amount of any away-from-home expenses for meals, lodging, and transportation. (See Instructions) B \$ _____
- C - Standard Deduction:**
A student from India who qualifies for the provision of the U.S. - India income tax treaty may be eligible to claim the standard deduction. All other nonresident aliens must enter "0". (See Instructions) C \$ _____
- D - Spouse:**
Enter "1" for your spouse. You may choose to enter "0" if you are married and have either a working spouse or more than one job (this may help you avoid having too little tax withheld). D _____
- E - Dependents:**
Enter number of dependents (other than your spouse or yourself) you will claim on your tax return. E _____
- F - Add lines D and E and enter the total here.** F _____
- G - Multiply line F times \$3,650. Prorate this amount for the tax year and enter the result here. (See Instructions)** G \$ _____
- H - Total Exemption Amount:** Add lines A, B, C, and G and enter the total amount here. H \$ _____

Under penalty of perjury, I certify that I am entitled to the section 162 deductions included on line B of this Form UC-W4NR and I do not anticipate staying in the U.S. for more than 12 months. Additionally, I am entitled to the number of withholding allowances claimed on this certificate and that I will file a timely Form 1040NR.

Signature _____ Date _____

RETN: 3 YEARS AFTER TERMINATION

FOR PRIVACY NOTIFICATION SEE REVERSE SIDE OF THIS PAGE

* EXHIBIT B: (Cont) .

PRIVACY NOTIFICATIONS

STATE

The State of California Information Practices Act of 1977 (effective July 1, 1978) requires the University to provide the following information to individuals who are asked to supply information about themselves.

The principal purpose for requesting the information on this form is for payment of earnings and for miscellaneous payroll and personnel matters such as, but not limited to, withholding taxes, benefits administration, and changes in title and pay status. University policy and state and federal statutes authorize the maintenance of this information.

Furnishing all information requested on this form is mandatory--failure to provide such information will delay or may even prevent completion of the action for which the form is being filled out, and will result in your being treated as a single person who claims no withholding allowances. Information furnished on this form may be used by various University departments for payroll and personnel administration and will be transmitted to the federal and state governments as required by law.

Individuals have the right to review their own records in accordance with University personnel policy and collective bargaining agreements. Information on applicable policies and agreements can be obtained from campus or Office of the President Staff and Academic Personnel Offices.

The officials responsible for maintaining the information contained on this form are campus or Office of the President Staff and Academic Personnel Managers or campus Accounting Officers.

FEDERAL

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. The Internal Revenue Code requires this information under sections 3402(f)(2)(A) and 6109 and their regulations. **Failure to provide a properly completed form will result in your being treated as a single person who claims no withholding allowances; providing fraudulent information may also subject you to penalties.**

Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, to cities, states, and the District of Columbia for use in administering their tax laws, and using it in the National Directory of New Hires. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

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 Code section 6103.

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 37

Instructions for Completing the Nonresident Alien - Scholarship and Fellowship Recipients Federal Withholding Allowance Certificate.

The Form UC W-4NR must be completed on an annual basis by nonresident alien scholarship and fellowship recipients who wish to claim reduced withholding with respect to the taxable portion of their award. U.S. source scholarships and fellowships awarded to foreign students that are not excludable from gross income are subject to Federal withholding at a rate of 14%. Because this rate may exceed the actual tax liability of the foreign scholarship or fellowship recipient, Revenue Procedure 88-24 establishes reduced withholding procedures to approximate the actual tax liability of the recipient. For most University visitors, the reduced withholding procedures apply only to payments made to nonresident alien scholarship and fellowship recipients holding an "F" or "J" visa. Each recipient who files a Form UC W-4NR must also file an annual U.S. income tax return to be allowed the exemptions and deduction claimed on that form. In addition, recipients may claim away-from-home expenses only if their stay in the U.S. is anticipated to be for one year or less.

Personal Information:

1. Name: Enter your name.
2. Taxpayer Identification Number: Enter your Social Security Number or Individual Taxpayer Identification Number.
3. Address: Enter your U.S. address.
4. Marital Status: Nonresident aliens can only claim single marital status regardless of actual marital status.
5. Name Change: Mark this box only if your last name has changed since receiving your Social Security card.

Line A - Personal Exemption: Enter the prorated amount of the personal exemption for the tax year to which the reduced withholding applies. For 2009, the personal exemption amount is \$3,650. To prorate this amount, divide it by 365 and multiply the result by the number of days in the tax year during which will be present in the U.S.

Line B - Away-from-Home Expenses: The away-from-home expenses include meals, lodging, transportation, and other expenses deductible under Internal Revenue Code section 162 (note that only 50% of meal expenses are deductible.) If the actual expenses are known at the time that this Form UC W-4NR is completed, the actual amount should be included on line B. If, however, the actual amount of these expenses is not known at the time the Form UC W-4NR is completed, a per diem rate of \$18.00 per day should be used. (The \$18.00 rate is the U.S. government per diem allowance rate under the Federal Travel Regulations in effect for participants in the Career Education Program).

Line C - Standard Deduction: The standard deduction is \$5,700 for both and married persons. A student or grantee who qualifies under Article 21(2) of the U.S.-India Income Tax Treaty may enter the standard deduction if he or she does not claim away-from-home expenses or other itemized deductions.

Line D & E - Spouse and Dependents: Nonresident aliens generally are not allowed to claim additional personal or dependency allowances. Therefore, leave lines D and E blank unless you are a resident of one of the following countries:

- Residents of Canada, Mexico, and U.S. Nationals, (i.e., Northern Mariana Islands and American Samoa) are entitled to claim the same personal allowances as U.S. citizens; residents of Korea are entitled to claim an allowance for themselves, their spouse and dependent children who are present with them in the U.S. at some time during the tax year.
- Students from India are entitled to claim one additional allowance for a spouse, based upon benefits set forth in the U.S. - India income tax treaty.

Line G - To prorate the amount, divide it by 365, and multiply the result times the number of days in the tax year during which you will be present in the U.S.

Line H - Total Exemption Amount: To determine the annual exemption amount for the current tax year, add lines A, B, C, and G.

RETN: 3 YEARS AFTER TERMINATION

Keep a photocopy of the Form UC W-4NR for your records

TAXES : TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 38

*EXHIBIT: C

University of California

Employee Educational Assistance Tax Determination Form

This form should be used for both employees enrolled under the Reduced Fee Enrollment Policy and employees whose educational expenses are paid directly to another educational institution. Return form to Accounts Payable or Disbursements.

Part I Employee Information		Employee No. _____	
Employee Name _____		Office Phone () _____	
Department _____		Regular _____ Part-time _____	
Job Title _____			
Part II Course Information			
Course Title _____		No. of Units _____ semester/quarter	
Undergraduate: Yes _____ No _____			
Graduate (RA, TA, or equivalent title, enrolled at UC): Yes _____ No _____			
Graduate (other than RA, TA, or equivalent title): Yes _____ No _____			
<i>Undergraduate courses and graduate courses for RAs and TAs enrolled at UC are exempt from taxation. For other graduate courses, go to Part III.</i>			
Part III Job-related Courses			
1. Is the course required by the University, or by law or regulations, to enable the employee to keep his/her current salary or job?		Yes _____	No _____
2. Does the course maintain or improve skills required in the employee's present job?		Yes _____	No _____
3. Is the course required to meet the minimum requirements of the employee's present job?		Yes _____	No _____
4. Is the course part of a program of study that will lead to qualifying the employee for a new trade or business?		Yes _____	No _____
If the education both directly benefits the individual in the performance of his/her current job function and benefits the individual in obtaining promotions or assists in career advancement, which is the greater benefit of the education to be provided (please indicate by placing a checkmark next to only one of the following)			
Current Job Performance _____		Promotion/career advancement _____	
Part IV Tax Determination		Department Use	
If the course is a non-job related graduate-level course and the employee does not hold the title of RA, TA, or the equivalent, educational assistance is tax-exempt up to \$5,250 per calendar year.		Fall \$ _____	
Amount of educational assistance: _____		Winter \$ _____	
Less maximum annual exempt amount: <u>-\$5,250</u>		Spring \$ _____	
Taxable educational assistance: _____		Summer \$ _____	
<i>If the educational assistance exceeds \$5,250, the excess should be processed through the Payroll Office or by the department Payroll preparer.</i>			
I understand that any taxable educational assistance is subject to Federal and State withholding for income tax and OASDI and Medicare, and I authorize the Payroll Office to withhold all applicable taxes from my earnings.			
Signature of employee _____		Date _____	
Signature of Supervisor or Department Head _____		Date _____	
PAYROLL CODE			
LOC/ACC/COST CTR/FUND/PROJ/SUB/OBJ			NET CHARGES

**EXHIBIT D: Sample Letter to Students

The following is a sample letter to **students** (U.S. citizens and residents) who are recipients of a scholarship or fellowship informing them of the general tax rules regarding their award, including their reporting and recordkeeping responsibilities

Name of student
Address

Dear _____:

According to our records, you are the recipient of a scholarship or fellowship awarded in connection with your enrollment at the University of California, _____. The term "scholarship or fellowship" includes grants, waivers, and other forms of "gift aid," which typically do not need to be repaid. The purpose of this letter is to inform you about the general treatment of your scholarship or fellowship for tax purposes as well as your reporting and recordkeeping responsibilities. The information provided, below, applies regardless of whether the scholarship or fellowship is from the University of California or from a third-party source.

In some cases, the scholarship or fellowship funds are paid directly to you, while in other cases they are credited directly to your University student account. For example, a scholarship from a third-party source that is intended to pay your fees and tuition may be paid directly to you, or the third party may pay the University directly on your behalf and the University, in turn, credits your University student account. Whether the scholarship or fellowship payment is paid to you directly or to the University on your behalf, for tax purposes, the payment is treated as made to you and is subject to the tax rules discussed below.

Under Internal Revenue Service (IRS) regulations, you do not have to pay taxes on a scholarship or fellowship to the extent the funds are used for required tuition, fees, books, supplies, equipment, or other mandatory fees for classes or enrollment. The amount of health insurance premiums you pay to the University in order to be enrolled is also considered a required fee. To the extent you use scholarship or fellowship funds to pay for these types of required fees and expenses, the funds should be excluded from your taxable income.

Regardless of how the scholarship and fellowship funds are paid to you (i.e., either directly or on your behalf) you are required to maintain

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 40

**EXHIBIT D: (Cont.)

records and documentation showing that you used all or a portion of your scholarship or fellowship funds for these required purposes. Any portion of a scholarship or fellowship used to pay for other *expenses (e.g., room and board, travel, moving expenses and other living expenses) should be included in your taxable income for the year. Again, this would be the case regardless of how the funds were paid. Therefore, you may have to pay income taxes on the portion of your scholarship or fellowship used for such expenses. For more information on the tax treatment of scholarships and fellowships, see IRS Publication 970 (Tax Benefits for Education), which can be found on the IRS website at <http://www.irs.gov/formspubs/lists/0,,id=97819,00.html>.

IRS regulations do not permit the University to withhold income taxes on the taxable portion of scholarship or fellowship payments. Therefore, depending upon the taxable amount of your award, you may need to make estimated income tax payments prior to filing your tax return. For more information on the rules pertaining to estimated tax payments, see IRS Publication 505 (Tax Withholding and Estimated Taxes), which can be found at the same IRS website address shown above.

You should make the determination regarding whether your scholarship or fellowship is taxable based upon your individual facts, irrespective of how the University may have applied your award funds to the amounts you owed the University. To the extent that you determine that a portion or all of your scholarship or fellowship funds are not subject to tax, you should retain receipts and other documents that show the total amount of your qualifying (i.e., nontaxable) expenses.

Pursuant to the Taxpayer Relief Act of 1997, the University is required to file a Form 1098-T (Tuition Statement) information return to IRS for most students. If a return is filed, the University must also provide a copy of the return to the student showing the information reported. Depending on the UC campus you attend, either the amount of qualified tuition and related expenses paid or the amount billed is reported (in either Box 1 or Box 2 of the 1098-T). Among other information, the University also is required to report the amount of all scholarships and fellowships (referred to by the IRS as "scholarships or grants"), from all known sources, that the University processed on your behalf. The aggregated amount reported for these types of awards is without regard to whether any portion may be taxable. The amounts reported on the 1098-T represent a summary of the qualified tuition and related expenses, as well as any scholarships and fellowships you received, based on the information on file at the UC campus you attended. This information may be of use to you in calculating the amount of the higher education tax credit or deduction you may be eligible to claim, but your personal financial

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 41

**records serve as the official supporting documentation for your federal income tax return. For more information about the education tax credit or deduction, see IRS Publication 970, which is available on the IRS website shown above.

Please note that this letter is intended only to introduce you to the tax rules applicable to recipients of scholarships and fellowships. The University of California does not provide tax advice; you should contact your personal tax advisor with any questions or concerns.

Sincerely,

Designated Campus Official

cc: Vice Chancellor for Student Affairs
Graduate School Deans
Campus Financial Aid Officers

****EXHIBIT E:** Sample Letter to Postdoctoral Scholars

The following is a sample letter to **postdoctoral scholars** (U.S. citizens and residents) who are recipients of a fellowship, i.e., postdoctoral fellow or paid direct, informing them of the general tax rules regarding their award, including their reporting and recordkeeping responsibilities

Name of postdoctoral fellow
Address

Dear _____:

According to our records, you are the recipient of a fellowship awarded in connection with your training at the University of California, _____. Recipients of such awards include postdoctoral fellows, clinical fellows, and similar recipients. The purpose of this letter is to inform you about the general treatment of your award for tax purposes.

In some cases, the fellowship funds are paid directly to you, while in other cases the funds are provided by a third party on your behalf. For example, an award intended to pay the recipient's expenses may be paid directly to the recipient, or it may be paid by the third party directly to the University and credited to the recipient's University account. In either event, however, the payment is treated for tax purposes as made to the fellowship recipient and will be subject to the tax rules discussed below.

Under Internal Revenue Service (IRS) regulations, a fellowship is not taxable only if the funds are used for required tuition, fees, books, supplies, equipment, or other mandatory fees for classes or enrollment. Any portion of a fellowship used to pay for other expenses (e.g., room and board, travel, health insurance premiums, and other living expenses) must be included in your taxable income for the year. Again, this would be the case whether the funds were paid to you directly or to a third party on your behalf. Therefore, you may have to pay income taxes on the portion of your fellowship used for such expenses.

Health benefits provided by the University to postdoctoral fellows and their dependents are subject to income tax with respect to the premiums that are paid by the University, less any amounts paid by the recipient. Benefits provided to the domestic partner of a postdoctoral fellow also are taxable whether or not the domestic partner qualifies

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 43

as a dependent. For more information on the tax treatment of fellowship grants, see IRS Publication 970 (Tax Benefits for Education), which can be found on the IRS website at <http://www.irs.gov/formspubs/lists/0,,id=97819,00.html>.

IRS regulations do not permit the University to withhold income taxes on the taxable portion of fellowship payments. Therefore, depending upon the taxable amount of your award, you may need to make estimated income tax payments prior to the filing of your tax return. For more information on the rules pertaining to estimated tax payments, see IRS Publication 505 (Tax Withholding and Estimated Taxes), which can be found at the same IRS website address shown above.

Please note that this letter is only intended to introduce you to the tax rules applicable to recipients of fellowships. The University does not provide tax advice; you should contact your personal tax advisor with any questions or concerns.

Sincerely,

Appropriate Academic Officer

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 44

Exhibit F

UNIVERSITY OF CALIFORNIA

DENVER • COVINGTON • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

VICE PRESIDENT—FINANCIAL MANAGEMENT

OFFICE OF THE PRESIDENT
1111 Franklin Street, 19th Floor
Oakland, California 94612-4200

June 28, 2002

CONTROLLERS

Subject: Section 127 Educational Assistance Plan

Enclosed is a copy of the University of California's Section 127 Educational Assistance Plan (Attachment 1), which will become effective for courses that begin on or after July 1, 2002. Also enclosed is a Q&A addressing questions about the key provisions of the Plan and a chart comparing provisions of the Internal Revenue Code that provide tax benefits for educational assistance (Attachment 2).

As you know, the Economic Growth and Tax Relief Reconciliation Act of 2001 amended Internal Revenue Code (IRC) Section 127 to reinstate a permanent exclusion for graduate-level employer-provided educational assistance in order to allow more employees to seek higher education. The amount of tax-free benefits an employee may receive is limited to \$5,250 per calendar year. In order to provide these favorable tax benefits, however, an employer must prepare a separate written plan for the exclusive benefit of its employees.

Traditionally, the University has provided graduate-level assistance to its employees under the Reduced Fee Enrollment Policy, the Partial Fee Remission Program (for graduate student research and teaching assistants), and other professional development programs. Under prior law, the value of this educational assistance was taxable to the recipient unless the assistance was job-related or the employee was a RA or TA. With the implementation of the University's Section 127 Plan, such assistance will no longer be taxable, up to the \$5,250 annual limit.

If you have any questions, please call Michael O'Neill at (510) 987-0905.

A handwritten signature in black ink, appearing to read "Anne C. Broome".

Anne C. Broome
Vice President—Financial Management

Enclosure

cc: Senior Vice President Mullinix
Vice Chancellors—Administration
Assistant Vice President Boyette
Assistant Vice President Plous
Assistant Vice President Switkus

Attachment 1

UNIVERSITY OF CALIFORNIA
SECTION 127
EDUCATIONAL ASSISTANCE PLAN
ARTICLE I
Establishment and Purpose of Plan

1.01 The Regents of the University of California hereby establish this Plan for the purpose of providing tax benefits related to the furnishing of educational assistance to eligible current and retired employees in accordance with the University of California's Reduced Fee Enrollment Policy and professional development programs.

1.02 It is the intention of The Regents of the University of California that the educational assistance provided under the Plan be eligible for exclusion from a Participant's income to the maximum extent possible under Code Section 127(a) as well as California Revenue and Taxation Code Section 17151. The Regents of the University of California presently provide, and will continue to provide, to their employees a variety of other benefits, some of which may qualify for exclusion from gross income under provisions other than Code Section 127, including the qualified tuition reduction provisions of Code Section 117(d) and job-related courses deductible under Code Section 162. The educational assistance offered under this Plan is provided in addition to such other benefits, which shall not constitute a part of this Plan.

ARTICLE II
Definitions

2.01 "Educational Institution" means any entity that provides instruction or training that improves or develops the capabilities of an individual, including instruction or training

2.02 furnished by the Employer, either alone or in conjunction with other employers, or furnished by third parties including other educational institutions .

2.02 “Benefits” means the value of educational assistance provided by the Employer that is excludable from a Participant’s gross income under Code Section 127. Such assistance includes (a) the payment, reimbursement, or waiver of tuition, fees, and similar payments charged by an Educational Institution, and (b) the cost of books, supplies, or equipment that is paid for or incurred by a Participant in taking an Educational Course. Benefits shall not include the payment, reimbursement, or waiver of costs related to (a) tools or supplies which may be retained by the Participant after completion of an Educational Course, or (b) meals, lodging, or transportation incidental to taking an Educational Course.

2.03 “Code” means the Internal Revenue Code of 1986, as amended.

2.04 “Educational Course” means a graduate course taken by the Participant under the University of California’s Reduced Fee Enrollment Policy or other professional development programs, or a graduate course taken by the Participant at another Educational Institution. Educational Courses include graduate-level courses of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree. Educational Courses do not include courses that instruct the Participant in any sport, game, or hobby, unless such course is required as part of a degree program.

2.05 “Employer” means The Regents of the University of California.

2.06 “Participant” means any employee receiving graduate-level benefits under the Reduced Fee Enrollment Policy, including (a) a Regular Status Employee ; (b) an employee of the Employer who holds an academic appointment at 50 percent or more time; and (c) a former employee of the Employer who has retired within four months of the date of his or her separation from service and who is an annuitant of a retirement system to which the Employer contributes.

“Participant” also means any employee taking graduate courses at the University of California or at another Educational Institution as part of a professional development program.

2.07 “Plan” means the University of California Section 127 Educational Assistance Plan.

2.08 “Plan Administrator” means the President of the University of California and those individuals within the Office of the President to whom the President has delegated authority for the administration of the Plan.

2.09 “Plan Year” means the 12-month period commencing January 1 and ending on December 31.

2.10 “Regular Status Employee” means a career employee of the Employer who is not required to serve a probationary period or has successfully completed a required probationary period and any extensions thereof.

ARTICLE III

Eligibility

3.01 Every Participant is eligible to receive Benefits under the Plan, subject to the limitations set forth in Article IV below.

3.02 A Participant shall cease to be eligible to receive Benefits on the date that the person is no longer a Participant. If, however, such person is receiving Benefits at the time that the person becomes ineligible, he or she will remain eligible for Benefits under the Plan until the end of the quarter or semester in which eligibility terminates.

3.03 A Participant who resigns or is terminated as an employee of the Employer, or who otherwise ceases to be eligible to receive Benefits under the Plan, is not required to reimburse the Employer for the value of any Benefits provided under the Plan.

ARTICLE IV

Limitations on Benefits

4.01 Any Participant who receives during a Plan Year a scholarship, fellowship, or other financial assistance from any public or private source, including a qualified tuition reduction as defined in Code Section 117(d), shall be entitled to receive Benefits under this Plan

for the same Plan Year, but only to the extent that the value of the Benefits supplements but does not supplant the amount of such scholarship, fellowship, or other financial assistance.

4.02 In no event shall a Participant be entitled to receive any Benefits under this Plan in lieu of cash or any other taxable compensation that he or she might otherwise be entitled to receive from the Employer.

4.03 In any Plan Year during which a person is a Participant in the Plan, the Participant shall be eligible to receive Benefits under the Plan up to an amount of \$5,250 (or such greater or lesser amount as may be subsequently permitted under Code Section 127).

4.04 The Plan is intended not to discriminate in favor of highly compensated employees (as defined in Code Section 414(q)) as to eligibility to participate in the Plan or Benefit distributions from the Plan, and the Plan will in all respects comply with the requirements of Code Sections 127(b)(2) and (3) and the underlying Treasury regulations. If, in the judgment of the Plan Administrator, the operation of the Plan in any calendar year would result in such discrimination, then such Plan Administrator shall select and exclude from participation in the Plan such Participants as shall be necessary to ensure that, in the judgment of the Plan Administrator, the Plan does not discriminate.

4.05 If any Benefit under this Plan becomes taxable, whether as a result of nondiscrimination tests or payment of Benefits in excess of statutory limits, any employment tax withholding owed with respect to the taxable portion of any Benefit shall be deducted from the Participant's other compensation in the same calendar year in which the Benefit is provided.

ARTICLE V

Plan Administrator

5.01 The Plan Administrator shall have authority and responsibility to take any reasonable actions necessary to control and manage the operation and administration of this Plan under rules applied on a uniform and nondiscriminatory basis to all Participants, including retaining an independent company to perform administrative services such as Plan recordkeeping or Benefit reimbursement.

5.02 The Plan Administrator shall give reasonable notice of the availability and terms of the Plan to such persons who are eligible to be Participants.

ARTICLE VI

Miscellaneous

6.01 All Benefits provided under this Plan, with the exception of fees waived under the University of California's Reduced Fee Enrollment Policy, shall be funded by the Employer in a manner that the Employer shall deem appropriate.

6.02 This Plan may be amended or terminated at any time by the Employer, provided, however, that any termination or amendment shall not affect the right of any Participant to claim an award for which he or she may have qualified prior to such termination or amendment.

6.03 The Vice President-Financial Management shall be responsible for preparing and filing any Federal or State information returns required to report any information concerning the Plan.

6.04 This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant. Nothing contained in this Plan shall be deemed to give any Participant the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any

Participant at any time regardless of the effect that such discharge shall have upon him or her as a Participant of this Plan.

6.05 This Plan shall be construed and enforced according to the laws of the State of California, other than its laws respecting choice of law, to the extent not preempted by any federal law.

6.06 This document sets forth the entire Plan. Except as provided in this Plan, no other employee benefit plan, which is, or may hereafter be, maintained by the Employer shall constitute a part of this Plan.

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed this day of June 28, 2002, to be effective as of July 1, 2002.

Exhibit F

Attachment 2

**University of California
Section 127 Educational Assistance Plan**

Questions and Answers

The following questions and answers relate to the University's Section 127 Educational Assistance Plan, which is effective for courses that begin on or after July 1, 2002:

1. What benefits are provided under the Section 127 Plan?

The Section 127 Plan is intended to provide favorable tax benefits only. The Plan will exclude from taxation graduate-level courses provided by the University to eligible employees, up to a maximum of \$5,250 per calendar year. Although most educational benefits currently available to employees are already exempt from taxation under other provisions of the Internal Revenue Code (IRC), the Section 127 Plan provides relief from taxation for those employees whose graduate-level educational benefits are not covered under other Code provisions (see attached Comparison Chart).

2. Who will benefit under the Plan?

Employees enrolled in graduate-level courses under the Reduced Fee Enrollment Policy or other professional development programs that are not job-related will benefit from the Plan. The value of such courses will not be taxed, up to the \$5,250 annual limit. Employees enrolled in non-job-related graduate courses taken for professional development at another educational institution are also covered by the Plan and will not be taxed on the value of those courses, subject to the annual limit.

3. What kinds of graduate courses are covered under the Plan?

The Plan covers graduate-level courses of a kind normally taken by an individual leading to a law, business, medical, or other advanced academic or professional degree. Covered

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 52

courses do not include courses or other education involving sports, games, or hobbies. Courses covered by the Plan may be taken at the University of California or at another educational institution.

4. Are any undergraduate courses covered under the Plan?

No. Undergraduate courses provided by the University to employees are excluded from taxation under IRC section 117.

5. Why are job-related courses not covered under the Plan?

Job-related courses are already exempt from taxation under IRC section 162. Thus, only courses taken for professional development that are not directly related to an employee's current position are covered by the Plan.

6. What is the definition of a job-related course?

A job-related course is a course taken by an employee either to *maintain* or *improve* skills required in the employee's current job; or to meet the express requirements of the employer; or the requirements of law or regulations, imposed as a condition to retaining the employee's salary, status, or employment. See Accounting Manual Chapter T-182-77 for more information.

7. Are Section 127 educational benefits reportable on the Form W-2?

No. The instructions for Form W-2 provide that payments qualifying under a Section 127 educational assistance program are not reportable in box 1 as wages. Only waivers or reimbursements (for non-job-related graduate courses) in excess of the \$5,250 annual exclusion limit would be reported on the Form W-2 as taxable compensation, subject to withholding. Accordingly, such excess amounts should be paid through the payroll system.

8. What are the requirements for a Section 127 Plan?

Section 127 requires that an employer prepare a separate written plan for the exclusive benefit of its employees to provide such employees with educational assistance.

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 53

In addition, eligible employees must be provided reasonable notification of the availability and terms of the plan, and the plan must not discriminate in favor of highly compensated employees. Section 127 does not require the educational assistance program to be funded.

9. May benefits be provided on a retroactive basis?

No. Section 127 requires that employees be provided with reasonable notice about the benefits available under the plan. If benefits are provided before the plan is in effect, employees have not been provided with the requisite notice.

10. Are there any IRS information reporting requirements related to 127 Plans?

No. The IRS has indefinitely suspended the reporting of data related to the administration of a Section 127 Plan (IRS Notice 2002-24).

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 54

Educational Assistance Comparison Chart

	§117	§127	§162
Each of expenses	tuition reduction at institution of employment or another educational institution (see §170(b)); course need not be related to employment	educational expenses, including, but not limited to, tuition, fees, books, supplies, equipment, and employer-provided courses, of any institution; need not be related to employment	educational expenses that maintain or improve skills required for employment, or meet the express requirements of the employer or applicable law or regulations imposed as a condition to the retention of the employee's established employment relationship, status, or rate of compensation
Eligibility	employee spouse surviving spouse dependent under 25 (see § 132(b))	employee former employee (retired, laid off, terminated involuntarily, disabled)	employee only
Educational level	below graduate level unless engaged in teaching or research activities	no educational level specified; all graduate courses OK after 1/1/02; no courses involving sports, games, or hobbies	no educational level specified
Exemption limit	no limit	\$5,250 per calendar year	no limit
Other limitations	no discrimination in favor of highly compensated employees	no discrimination in favor of highly compensated employees; employees with collectively bargained educational assistance benefits excluded from plan	no courses required to meet minimum requirements for employee's present or intended employment; no courses that lead to qualification for a new trade or business
Written plan required	no	yes	no

TAXES: TAXATION OF SCHOLARSHIP AND FELLOWSHIP
GRANTS AND EDUCATIONAL ASSISTANCE

T-182-77

ACCOUNTING MANUAL

Page 55

**EXHIBIT G Fellowship vs. Compensation Determination			
Campus:		Date:	
Program or Type of Award:			
PI:		Dept	
		Fellowship	Compensation
1.	Does the focus of the program relate primarily to (a) the performance of research services for the University, or (b) the development of the research fellow's training skills?	_____ (b)	_____ (a)
2.	Does the research fellow serve as a replacement or substitute for an employee, such as a medical resident or laboratory technician?	_____ No	_____ Yes
3.	Do the activities of the research fellow during his/her training program materially benefit the University?	_____ No	_____ Yes
4.	Are the research fellow's projects determined by the research fellow in conjunction with his/her training supervisor and/or faculty mentor?	_____ Yes	_____ No
5.	Is the research fellow required to perform past or future services for the University as a condition to receiving the research fellowship grant?	_____ No	_____ Yes
6.	Are the research activities conducted by the research fellow substantially the same as those research activities conducted by NIH National Research Service Award grantees?	_____ Yes	_____ No
7.	Does the research fellow receive substantially the same training and mentoring as a NIH National Research Service Award grantee?	_____ Yes	_____ No
If <u>all</u> of the Fellowship boxes are marked, the individual will be treated as a fellowship recipient for federal tax purposes.			

EXHIBIT G (Cont.)

Fellowship vs. Compensation Determination

If all of the Fellowship boxes were *not* marked, then please make the fellowship/compensation determination by responding to the following questions:

1.	Are the research fellow's projects directly related to the fulfillment of a sponsored research agreement or other University contractual obligation?	<u> </u> No	<u> </u> Yes
2.	Is the research fellow required to perform his/her research activities according to certain planned time schedules, e.g., a specified number of hours a day or week and a specified number of weeks during the year?	<u> </u> No	<u> </u> Yes

3.	Is the research fellow subject to the same level and type of supervision over the conduct of his/her research activities as a University research assistant employee?	<u> </u> No	<u> </u> Yes
4.	Is the research fellow classified as an employee for University payroll tax purposes?	<u> </u> No	<u> </u> Yes
5.	Does the research fellow receive health and other employee benefits that would be provided to career faculty and staff employees?	<u> </u> No	<u> </u> Yes
6.	Does the research fellow receive any faculty privileges?	<u> </u> No	<u> </u> Yes

If four or more of the Fellowship boxes are marked, the individual will be treated as a fellowship recipient for federal tax purposes. If fewer than four Fellowship boxes are marked, please submit this checklist to **[insert name of applicable office]** who will make the fellowship/compensation determination.