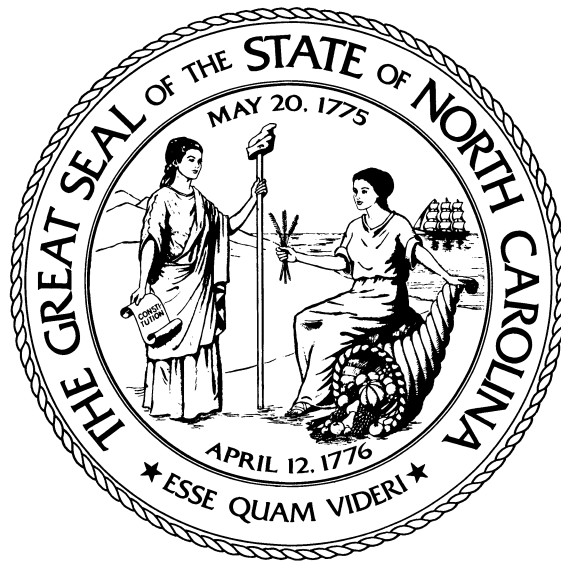


**POLICY AND PROCEDURES
PERTAINING TO PAYMENTS AND
COMPENSATION OF FOREIGN
NATIONALS, GOVERNMENTS,
AND CORPORATIONS**



June 2020

**Policy and Procedures Pertaining to Payments and Compensation of Foreign Nationals,
Governments, and Corporations**

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Policy and Procedures Pertaining to Payments and Compensation of Foreign Nationals, Governments and Corporations

POLICY:

The reporting and withholding of taxes associated with payments made to non-U.S. citizens by universities, community colleges, and other agencies of the State of North Carolina are in accordance with the laws and regulations of the U.S. Citizenship and Immigration Services (USCIS) and the Internal Revenue Service (IRS). The U.S. Citizenship and Immigration Services define what payments may be made to aliens who perform services in the United States. The Internal Revenue Service defines which payments made to aliens are reported and subject to taxes, as well as establishes the tax rates for those payments. In depth discussion of the alien tax system is provided in Appendix I.

Note: Although the preferred term for identifying a person who is not a U.S. citizen is “Foreign National”, the Internal Revenue Service and the U.S. Citizenship and Immigration Services use the word “alien”. Therefore, all non-U.S. citizens will be referred to as “aliens” in this text to minimize confusion with the federal government publications.

Procedures for Paying or Compensating an Alien:

The 6-step process detailed below must be followed to ensure that aliens are paid according to prevailing tax and immigration rules/regulations with appropriate taxes withheld and payments properly reported.

These procedures are intended to provide guidance in most situations facing state entities. These procedures are not inclusive. Tax and immigration laws are voluminous. Any situations not covered by this procedure should be handled on a case-by-case basis and receive additional guidance from the Office of the State Controller.

However, no one from the Office of the State Controller can act as a personal tax consultant, give personal tax advice or represent an individual dealing with the IRS while in their official role.

Step 1 - The Payee - Payment Eligibility and Tax Residency Status

A Foreign National Data Gathering Form, Appendix IV should be completed and presented with copies of the specified immigration documentation. This information is used to:

- Determine eligibility for payments to be made based on the type of visa issued or work authorization. Refer to the Visa Matrix (Appendix V). (An explanation of U.S. Immigration Law as it applies to employment can be found in Appendix II and descriptions of the more commonly used nonimmigrant visas are discussed in Appendix III.)
- Determine if the Payee’s tax status is Nonresident Alien or Resident Alien. Refer to the Substantial Presence Test (Appendix VI)

Step 2 - The Type of Payment

The type of payment made to the alien falls into four primary categories:

- 1) Dependent personal services: Wages, service-related scholarship/fellowship/assistantship payments, travel reimbursements
- 2) Independent personal services: Consulting fees, guest speaker, honoraria
- 3) Scholarships/Fellowships:
 - a) Qualified component (for degree candidates): Educational expenses, tuition, fees, books, etc.
 - b) Nonqualified component: Living expenses, stipend, housing allowances, cash balances, etc.
- 4) Miscellaneous Income Types: Prizes and awards, royalties, etc.

Step 3 - The “Source” of the Income

As important as the recipient’s tax status, the payor of the income and their residence also has bearing for determining U.S. federal reporting and taxation.

A **resident alien's** income is generally subject to tax in the same manner as a U.S. citizen. Therefore, worldwide income is reported.

A **nonresident alien** is usually subject to U.S. income tax only on U.S. source income. The U.S. source payor is responsible for withholding and reporting income paid to the nonresident alien. Refer to the **Summary of Source Rules for Income of Nonresident Aliens** (Appendix VII).

A determination is made as to the source of income in the following manner:

- For compensation paid to employees and independent contractors, income is sourced to the country where services are performed.
- For non-compensatory payments such as scholarships/fellowships, grants, prizes, and awards, the source of the income is the residence of the payor regardless of who disburses the funds. The only exception to this would be for payments you are merely acting as an agent of the foreign payor. If the activity is performed outside the United States, it is considered foreign sourced income and not subject to NRA withholding.

Step 4 - Is the Payment subject to Income Tax Withholding?

Income paid to a **resident alien** follows the same withholding tax rules as U.S. citizens. The federal withholding rates for resident aliens are the same as rates for U.S. citizens. Resident aliens who depart the U.S. to return to their home country, must reestablish residency to avoid taxation on their worldwide income. Under the general rule, the residency ending date is December 31 of the calendar year in which the resident alien departs the United States. Therefore, all income will continue to follow the same tax rules until to the new calendar year begins.

All U.S. sourced income paid to a **nonresident alien** is taxable with the exception of interest income and qualified scholarships/fellowships, unless a tax treaty applies.

The **federal withholding rates** for nonresident aliens are:

Type of Income	Federal Tax Rate
• Compensation (employees)	Standard graduated rates*
• F, J, M, & Q Visa Holders	
○ Nonqualified Scholarships / Fellowships	14%
○ Travel Grants (Expense)	14%-30%
○ Housing Allowances	14%
• All other Visa Holders	
○ Nonqualified Scholarships / Fellowships	30%
• Independent personal services (e.g. consulting fees, guest speaker fees, honoraria, awards, travel reimbursement and prizes)	30%
• Royalties	30%
• Prizes and awards	30%
• All other payments	30%

* Nonresident alien employees must complete the federal withholding form, W-4, in a specified manner. Further, beginning in 2015, nonresident alien employees must now complete the NC-4NRA annually, with the additional payroll withholding.

Tax forms and other documents the alien must complete for withholding purposes are referenced in Appendix VIII.

Tax Treaties - If an alien is a tax resident of a country that has an income tax treaty with the United States AND the treaty contains an article covering the primary activity the alien is being compensated for, then the alien may exempt part or all of his income from U.S. federal withholding taxes as specified in the article. The State of North Carolina currently honors federal tax treaties. If the tax rate is exempted or reduced under federal

regulations, most likely the State will follow the reduction/exemption. In depth information is referenced in Appendix IX. Countries with tax treaties containing applicable articles are referenced in Appendix X.

For independent and certain dependent personal services, an alien must ANNUALLY file a Form 8233, *Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual* and statement -if required- with the designated reporting agency. **Important:** *The reporting agency must review and sign the 8233 within 5 days of acceptance and send to the IRS (via fax or mail). The IRS is allowed 10 calendars days to reject the 8233.*

Step 5 - Is the Payment subject to Social Security and Medicare Taxes (FICA)?

In general, aliens performing services in the United States as employees are liable for U.S. Social Security and Medicare taxes, regardless of resident or nonresident tax status. However, certain classes of alien employees are exempt from U.S. Social Security and Medicare taxes. Wages earned in the employment groups as defined by the Federal Insurance Contribution Act is the income subject to these taxes.

As a general rule, the only aliens exempt from social security and Medicare taxes are F-1, J-1, M-1, and Q-1 visa holders while they are in nonresident tax status. **Note: If one of these designated visa holder changes to resident tax status during a year, the employee is subject to social security and Medicare taxes for the entire year on the employee's subject wages.** Please note that the employer is responsible for correcting all incorrectly withheld or under-withheld FICA taxes via the 941-X and W-2c. More information concerning Federal Insurance Contribution Act taxes is referenced in Appendix XI.

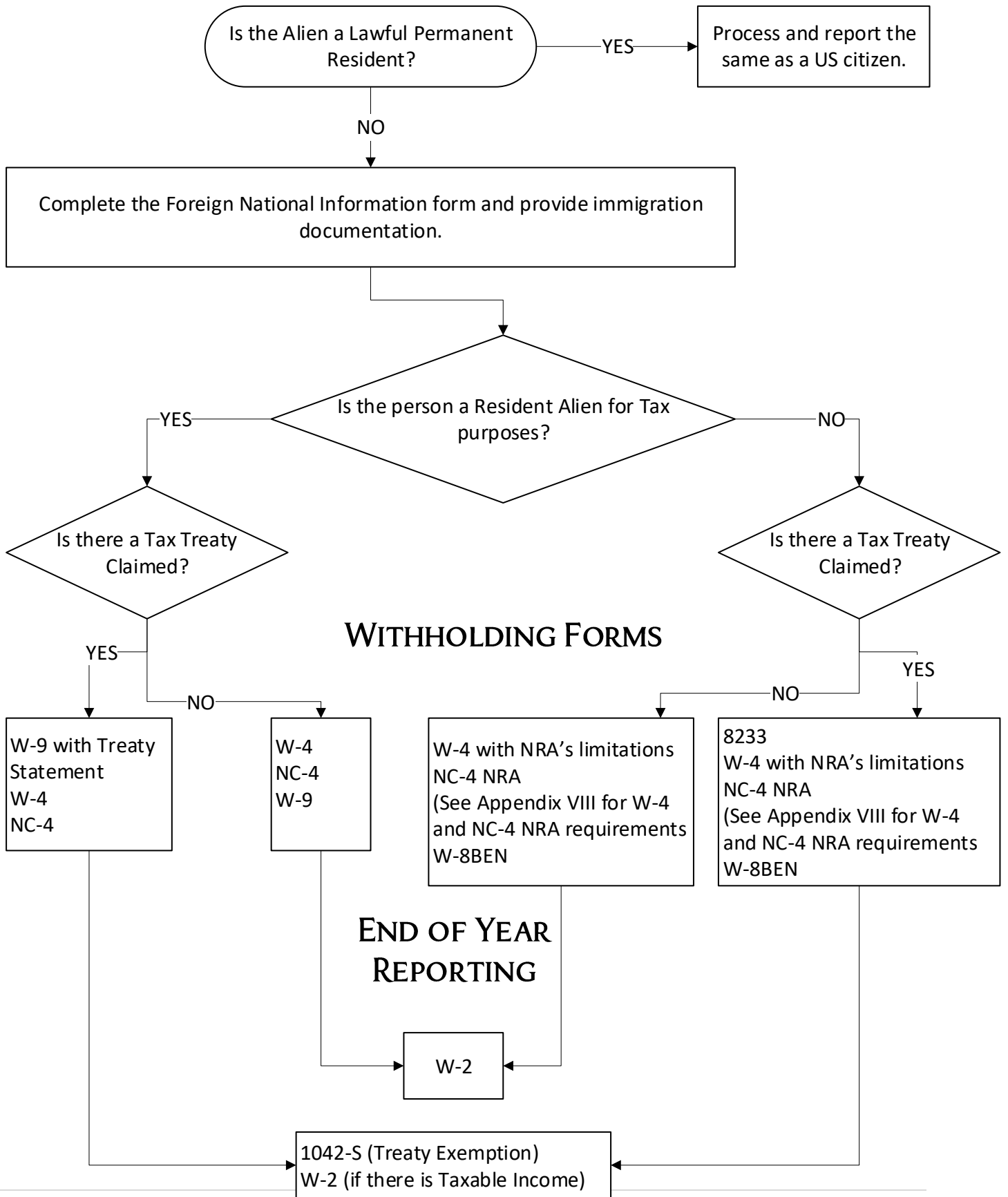
Step 6 - Determining if a Payment is Reportable and Reporting Requirements

Resident alien payments are reported to the federal government in the same manner as U.S. citizens. Forms issued to the resident alien regarding reportable income are the Form W-2, *Wage and Tax Statement* for wages and the various Forms 1099-MISC and/or 1099-NEC for non-wage compensation. Note: If the resident alien uses a tax treaty, he will receive a Form 1042-S for tax reporting purposes.

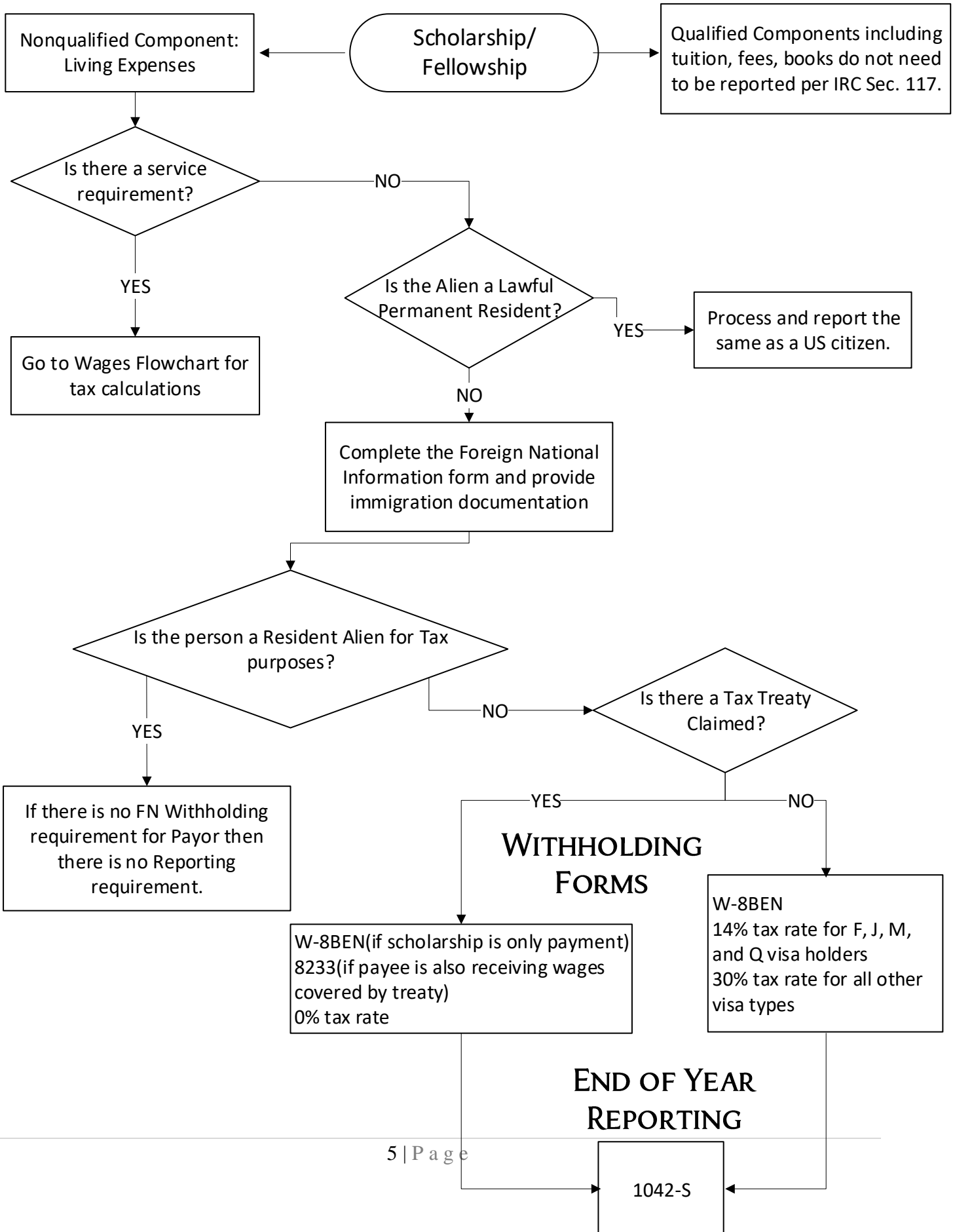
Nonresident alien payments subject to taxes are reported to the federal government. Forms issued to the nonresident alien are Form W-2, *Wage and Tax Statement* for wages subject to income taxes and/or FICA taxes and the Form 1042-S, *Foreign Person's United States Source Income Subject to Withholding* for non-wage compensation. IRS Forms 1099 cannot be issued to nonresident aliens. If the federal income was exempted under an IRS approved Central Withholding Agreement (CWA) and the payment is subject to NC nonresident taxes, the income/withholding must be reported on a NC 1099-PS or NC 1099-ITIN. Reporting this income on a 1042-S or 1099 could result in double reporting the income to the IRS.

Appendix XII lists the reporting requirements for the withholding agent at year-end.

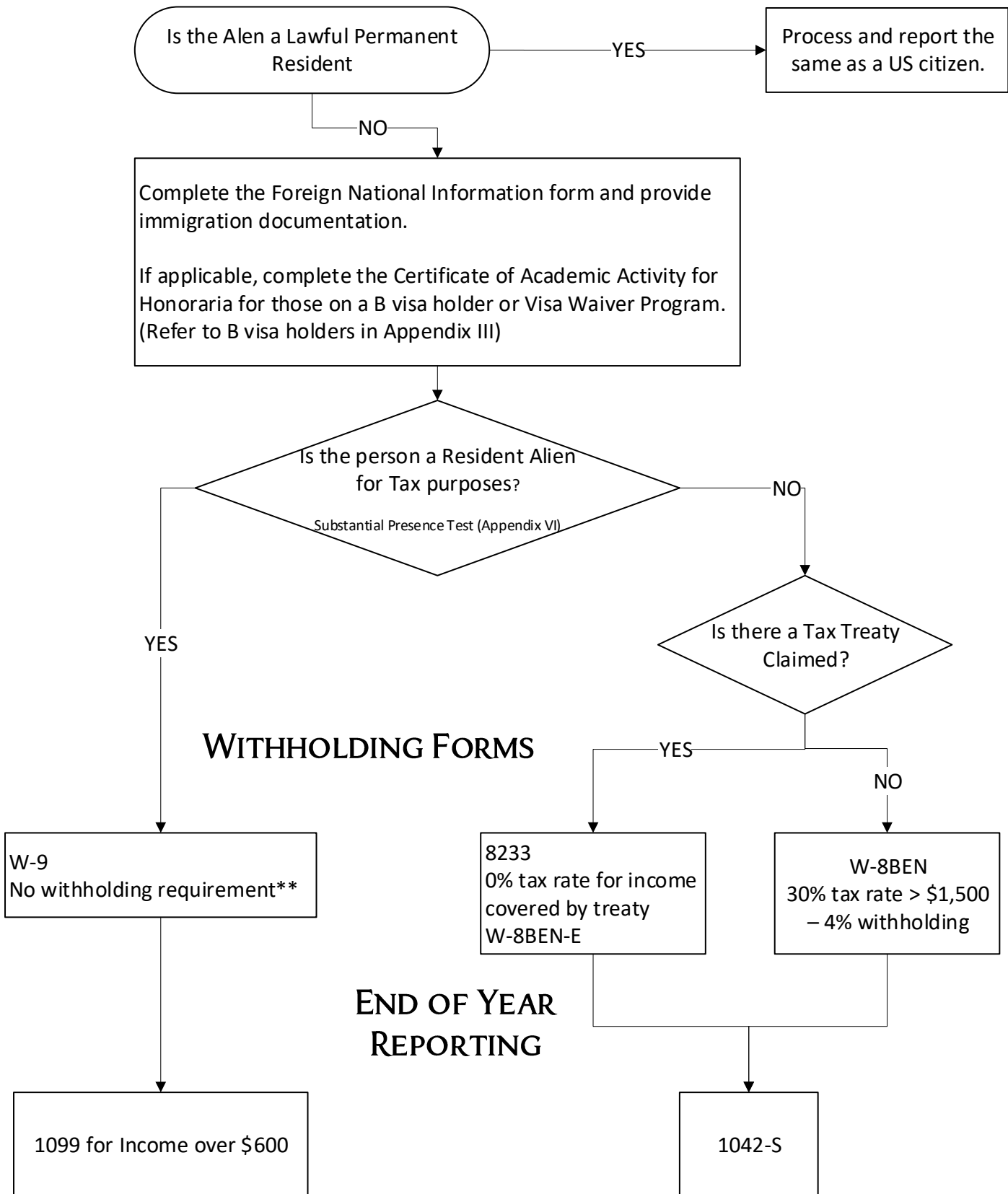
Flowchart: Wage Compensation Tax Forms and Reporting



Flowchart: Scholarship/Fellowship Tax Forms and Reporting



**Flowchart:
Independent Personal Services – Contractors* and Honoraria^
Tax Forms and Reporting**

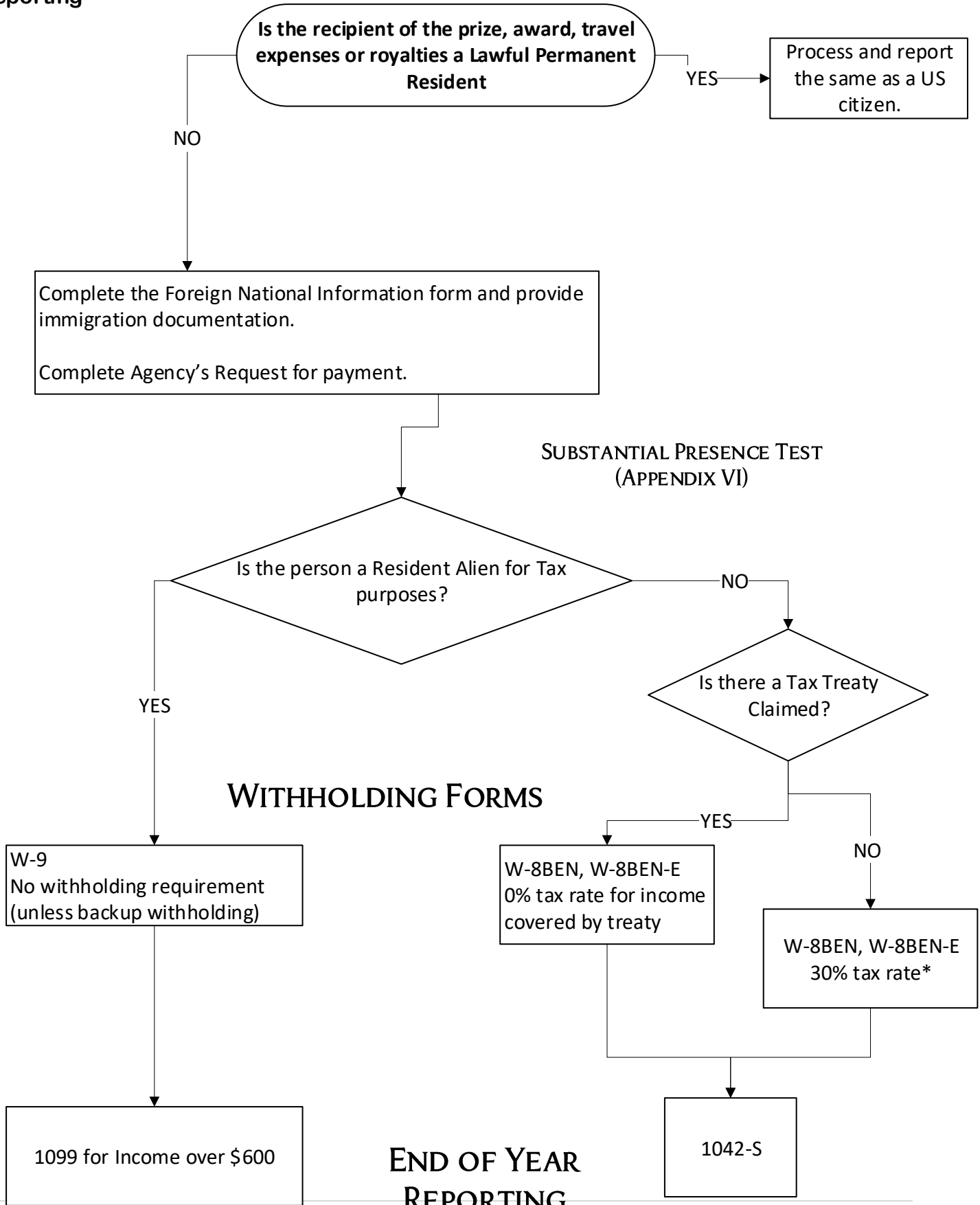


* Determination has been made that the individual is not an employee and satisfies the requirements for independent contractors.

^ State agencies are not permitted to pay honorariums.

** Provided the foreign national has an ITIN or SSN

**Flowchart:
Miscellaneous Income: Prizes, Awards, Travel Expenses, and Royalties Tax Forms and Reporting**



**END OF YEAR
REPORTING**

Withholding of Tax on Foreign Entities other than Individuals

The withholding and reporting of taxes associated with payments made to non U.S. entities by universities, community colleges, and other agencies of the State of North Carolina, are in accordance with the laws and regulations of the Internal Revenue Service (IRS).

A 3-step process is used to determine the withholding agents reporting and taxing of payments referred to as “NRA withholding”. The steps are:

Step 1 - The Payee - Tax Residency Status

NRA withholding applies only to payments made to a payee that is a foreign person. It does not apply to payments made to U.S. persons. The types of foreign entities besides nonresident aliens that receive income from U.S. payors include foreign corporations (with or without U.S. branches), foreign partnerships, foreign trusts, foreign estates, foreign governments, and international organizations. Payments made to U.S. agents of foreign persons are subject to NRA withholding. Each agency must understand who the beneficial owner of the income is, prior to making the payment.

To determine if a non-U.S. entity is classified as a foreign person use the following Standards of Knowledge:

- (1) Actual Knowledge of the status of the Payee, or “reason to know otherwise” (i.e., information on the status of the payee is available if a reasonable effort is made to secure it);
- (2) Documents presented by, for, or about the payee;
- (3) The filing of a withholding certificate by the payee (Forms W-8BEN, W-8ECI, W-8EXP, W-8IMY, 8233, or W-9); or
- (4) Presumption Rules: The regulatory presumptions listed at Treas. Reg. 1.1441-1(b)(3)(iii) et seq. See the **Presumption Rules in the Absence of Documentation** table on page 11.

Step 2 - The Income Subject to NRA Withholding

Generally, a payment is subject to NRA withholding if it is from sources within the United States and it is either:

- Fixed or determinable annual or periodical (FDAP) income, or
- Certain gains from the disposition of timber, coal, and iron ore, or from the sale or exchange of patents, copyrights, and similar intangible property.

Specific examples of FDAP income as well as income that is not subject to NRA withholding are found in IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

This income falls into one of two categories:

- **Effectively connected income:** Generally, when a foreign person engages in a trade or business in the United States, all income from sources within the United States other than fixed or determinable annual or periodical (FDAP) income is considered effectively connected with a U.S. business. FDAP income may or may not be effectively connected with a U.S. business.

OR

- **Income not effectively connected:** A payment is subject to NRA withholding if it is U.S. source income and it is either FDAP or certain gains.

Step 3 - Withholding Requirements

Income types and source will determine the withholding requirements.

Effectively Connected Income (ECI):

Foreign persons are generally subject to U.S. tax at a 30% rate on income they receive from U.S. sources. For exceptions to the 30% withholding, refer to the **Withholding Tax Rates** table on page 11.

Withholding Exemption: Form W-8ECI, *Certificate of Foreign Person's Claim for Exemption From Withholding on Income Effectively Connected with the Conduct of a Trade or Business in the United States* is received:

- Withholding agent does not need to withhold tax, but is required to report ECI income on 1042-S.

The W-8ECI indicates that:

- The foreign payee is the beneficial owner of the income,
- The income is effectively connected with the conduct of a trade or business in the United States, and
- The income is includible in the payee's gross income.

This withholding exemption applies to income for services performed by a foreign partnership or foreign corporation (unless item (4) below applies to the corporation). The exemption does not apply to:

1. Pay for personal services performed by an individual,
2. Effectively connected taxable income of a partnership that is allocable to its foreign partners,
3. Income from the disposition of a U.S. real property interest, or
4. Payments to a foreign corporation for personal services if all of the following apply:
 - a. The foreign corporation otherwise qualifies as a personal holding company for income tax purposes (Refer to IRC Section 542),
 - b. The foreign corporation receives amounts under a contract for personal services of an individual whom the corporation has no right to designate, and
 - c. 25% or more in value of the outstanding stock of the foreign corporation at some time during the tax year is owned, directly or indirectly, by or for an individual who has performed, is to perform or may be designated as the one to perform, the services called for under the contract.

IRS Form W-8ECI must include the business address of a foreign entity's U.S. branch on line 6. The form must include the birth date of an individual who submits the form as the beneficial owner of the income. To be valid, Form W-8ECI must include the beneficial owner's U.S. TIN – an EIN for an entity or an SSN or ITIN for an individual (nonresident aliens may not use an EIN even if they have one, on a Form 1040NR tax return). Form W-8ECI also requires a foreign TIN on line 8 unless the beneficial owner completing the form has not been issued one or the jurisdiction does not issue TINs.

Income Not Effectively Connected:

Foreign persons are generally subject to U.S. tax at a 30% rate on income they receive from U.S. sources. For exceptions to the 30% withholding, refer to the **Withholding Tax Rates** table on page 11.

Tax Treaty: The payee must provide the withholding agent IRS Form W-8BEN, Form W-BEN-E or Form 8233 to claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty, if applicable to the type of payment.

Foreign Governments and Certain Other Foreign Organizations

Foreign Governments

Investment income earned by a foreign government is not included in the gross income of the foreign government and is not subject to U.S. withholding tax. Investment income means income from investments in the United States in stocks, bonds, or other domestic securities, financial instruments held in the execution of governmental financial or monetary policy, and interest on money deposited by a foreign government in banks in the United States. A foreign government must provide a Form W-8EXP, *Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding* or, in the case of a payment made outside the United States to an offshore account, documentary evidence to obtain this exemption.

Investment income that is paid to a foreign government is subject to reporting on Form 1042-S. Income received by a foreign government from the conduct of a commercial activity or from sources other than those stated above, is subject to NRA withholding. In addition, income received from a controlled commercial entity (including gain from the disposition of any interest in a controlled commercial entity) and income received by a controlled commercial entity is subject to NRA withholding.

A government of a U.S. possession is exempt from U.S. tax on all U.S. source income. This income is not subject to NRA withholding. These governments should use Form W-8EXP to receive this exemption.

International Organizations

International organizations are exempt from U.S. tax on all U.S. source income. This income is not subject to NRA withholding. International organizations are **not required** to provide a Form W-8 or documentary evidence to receive the exemption if the name of the payee is one that is designated as an international organization by executive order.

IRC Section 7701(a)(18) provides the definition of international organization.

Foreign Tax-Exempt Organizations

A foreign organization that is a tax-exempt organization under section 501(c) of the Internal Revenue Code is not subject to a withholding tax on amounts that are not income includible under section 512 of the Internal Revenue Code as unrelated business taxable income. However, if a foreign organization is a foreign private foundation, it is subject to a 4% withholding tax on all U.S. source investment income. For a foreign tax-exempt organization to claim an exemption from withholding because of its tax-exempt status under section 501(c), or to claim withholding at a 4% rate, it must provide Form W-8EXP. However, if a foreign organization is claiming an exemption from withholding under an income tax treaty, or the income is unrelated business taxable income, the organization must provide a Form W-8BEN-E or Form W-8ECI. Income paid to foreign tax-exempt organizations is subject to reporting on Form 1042 and Form 1042-S.

As noted above, no form W-8EXP is required if the name of the organization is one designated as an international organization by executive order.

No U.S. EIN is required on a Form W-8EXP for a foreign government, international organization, or government of a U.S. possession. The exemption for a foreign government is limited under IRC section 892(a) to investment income on stocks, bonds, other domestic securities and financial instruments held for monetary policy purposes. The exemption from withholding for international organizations under IRC section 892(b) and governments of a U.S. possession under IRC section 115(2) are unlimited.

A U.S. EIN is required on a Form W-8EXP for a foreign tax-exempt organization claiming status as 501(c) status. The tax identification number issued to the organization by its jurisdiction of residence is recorded on line 8 unless the jurisdiction does not issue TINs or the organization has not been issued a TIN.

The Form W-8EXP for an organization claiming 501(c)(3) status must include with the form:

- The IRS determination letter or opinion of counsel concluding that the organization is one described in section 501(c)(3) and is not private foundation as described in section 509, and
- An affidavit of the organization setting forth sufficient facts for the IRS to determine that the organization is not a private foundation because it meets one of the exceptions described in section 509(a)(1), (2), (3), or (4)

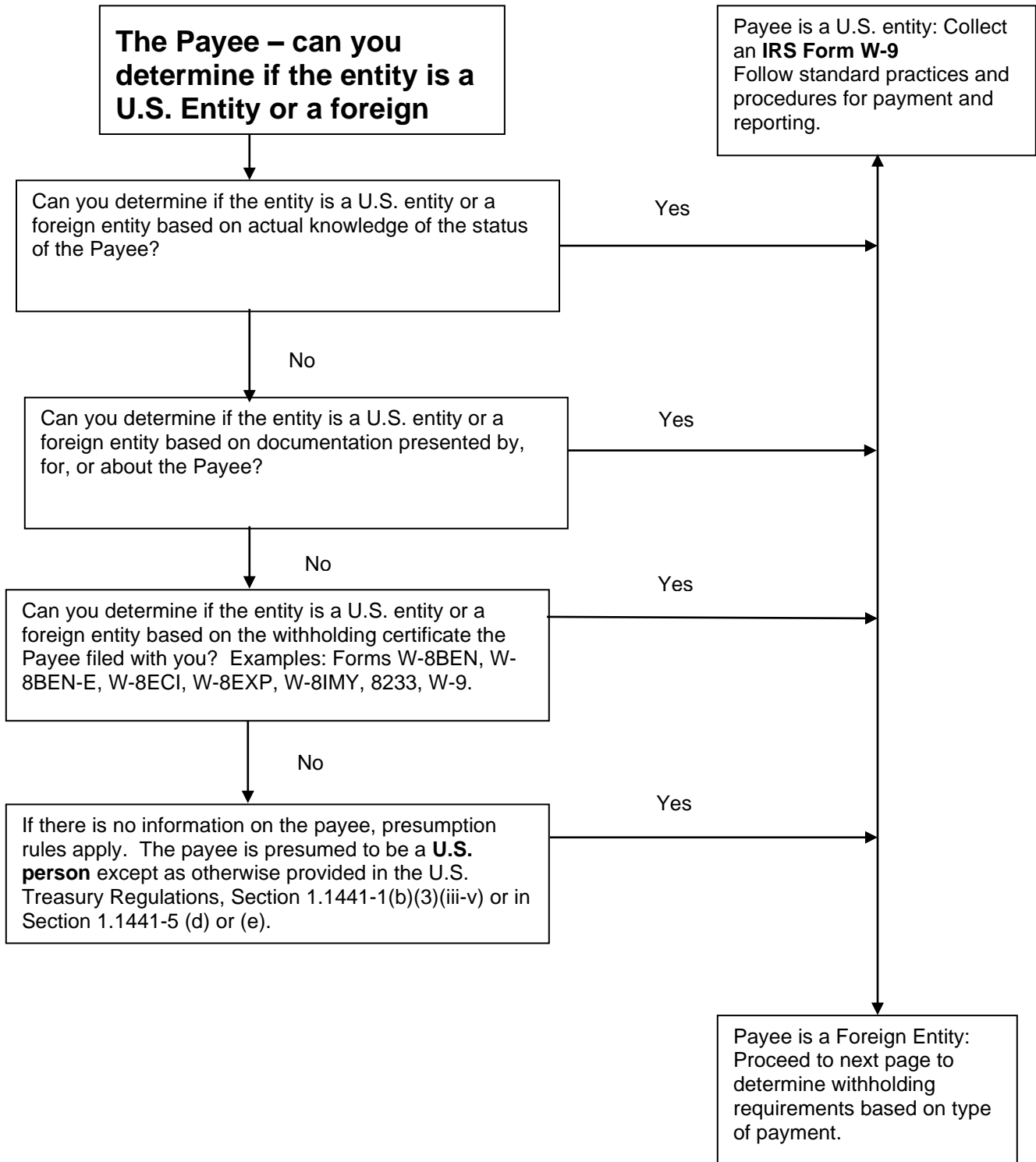
Presumption Rules in the Absence of Documentation

For the presumption rules related to	See regulation section
Payee's status	1.1441 – 1(b)(3); 1.6049 – 5(d)
Effectively connected income	1.1441 – 4(a)(2)
Partnership and its partners	1.1441 – 5(d)
Estate or trust and its beneficiaries or owner	1.1441 – 5(e)(6)
Foreign tax-exempt organizations (including private foundations)	1.1441 – 9(b)(3)

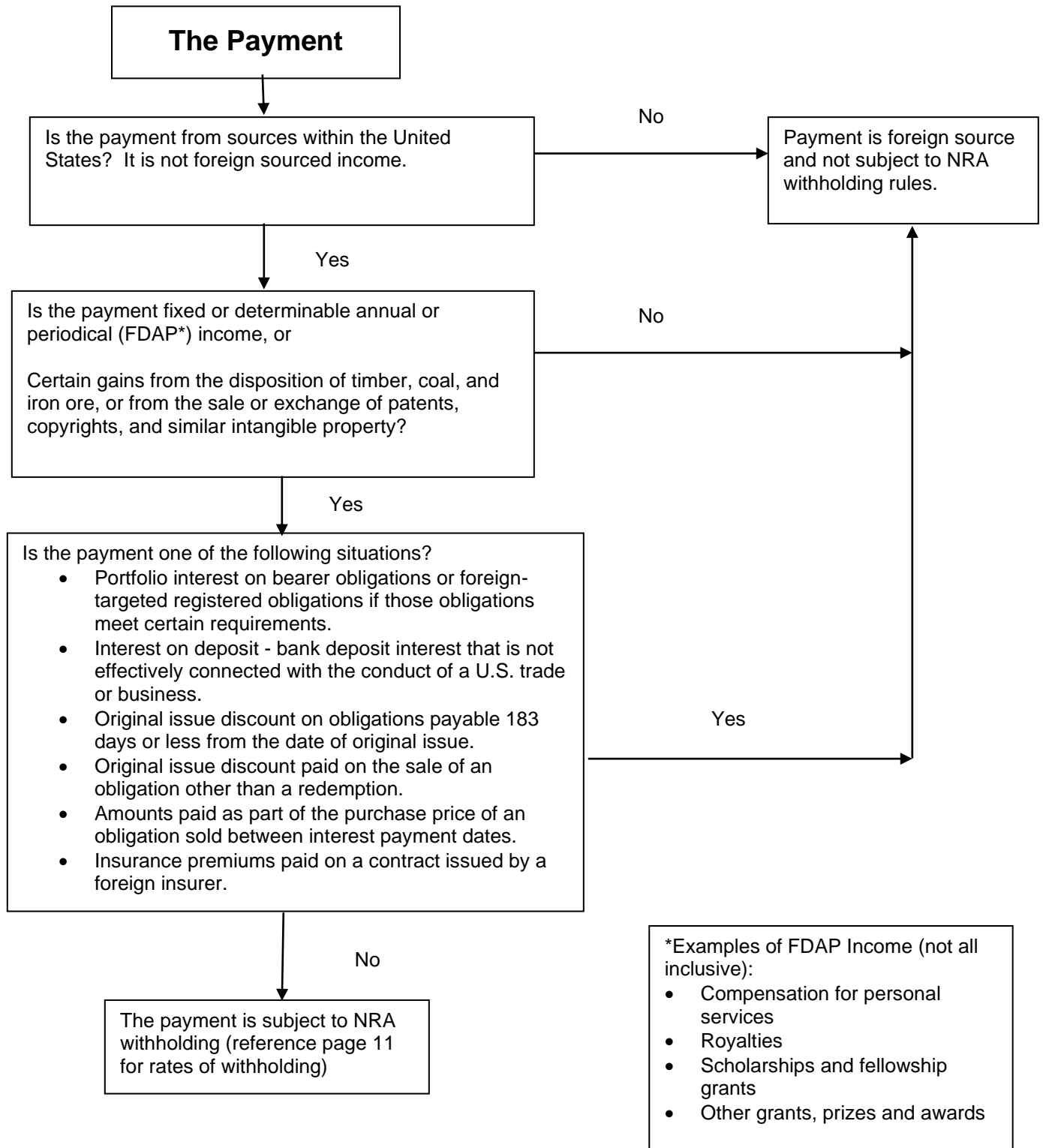
Withholding Tax Rates

Type of Income	Rate
Taxable part of U.S. scholarship or fellowship grant paid to holder of "F" "J" "M" or "Q" visa (see <i>Scholarship and Fellowship Grants</i> , later)	14%
Travel Grants — payments and reimbursements for travel that's attributable to the study, training, or research of the recipient for which no services are required in return. Reimbursements for travel expenses of an individual made to a third party rather than to or on behalf of the individual.	"F" "J" "M" or "Q" visa holders 14% All other visa holders 30%
Gross investment income from interest, dividends, rents, and royalties paid to a foreign private foundation	4%
Nonresident of NC – 4% withholding tax on Contractors with ITINs	Payments, cumulatively, greater than \$1,500 4%
Pensions — part paid for personal services (see <i>Pensions, Annuities, and Alimony</i> , later)	Graduated rates in Circular A or Circular E
Wages paid to a nonresident alien employee (see <i>Pay for Personal Services Performed</i> , later)	Graduated rates in Circular A or Circular E
Each foreign partner's share of effectively connected income of the partnership (see <i>Partnership Withholding on Effectively Connected Income</i> , later)	Non-corporate foreign partners are 37%, 21% for corporate foreign partners
Distributions of effectively connected income to foreign partners by publicly traded partnerships (see <i>Publicly Traded Partnerships</i> , later)	Non-corporate foreign partners are 37%, 21% for corporate foreign partners
Dispositions of U.S. real property interests (see <i>U.S. Real Property Interest</i> , later)	15% (or other amount)
All other income subject to withholding	30%

Flow Chart:
Step 1- Determining the tax status of the Payee

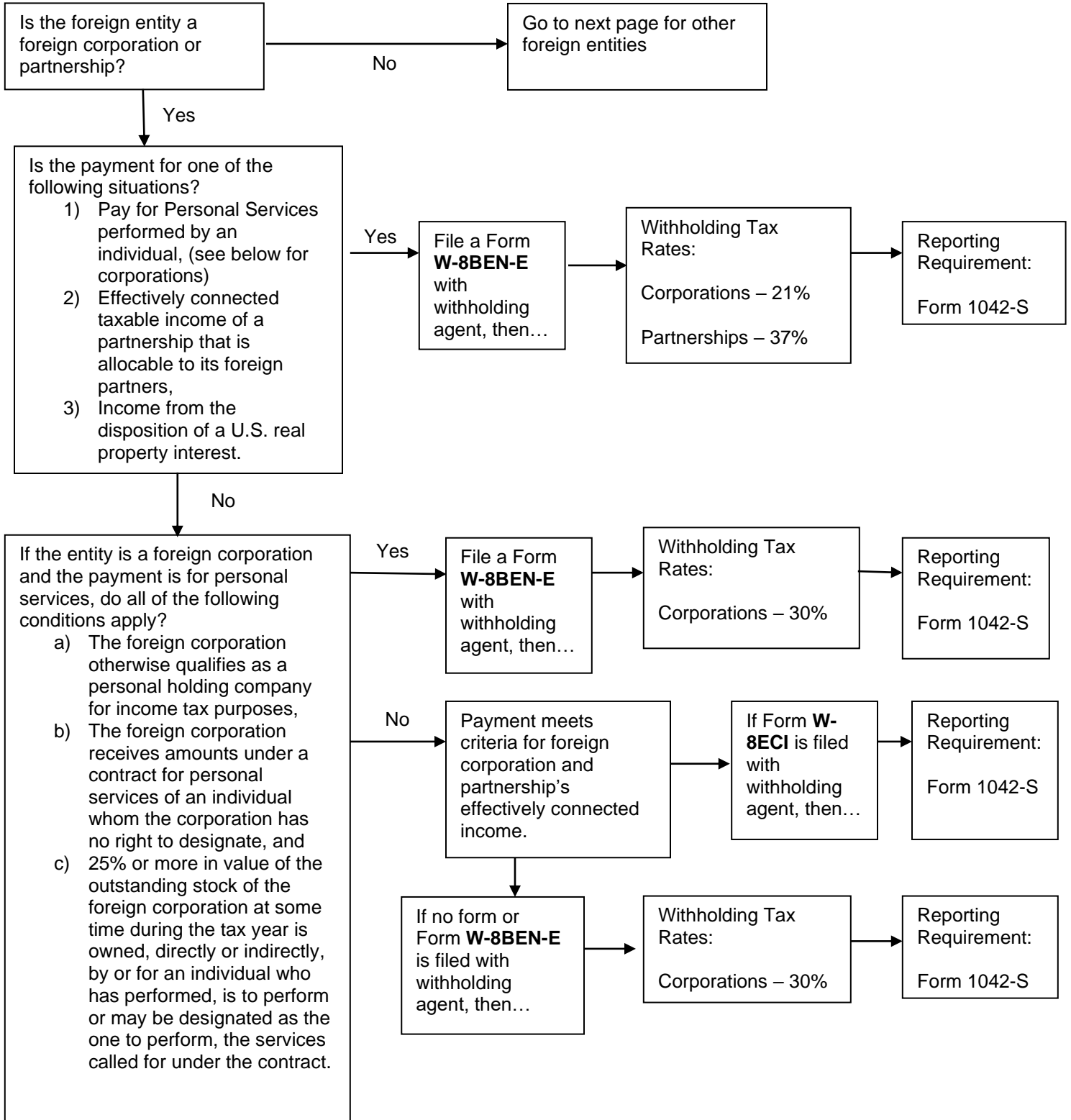


**FLOW CHART:
STEP 2- DETERMINING IF INCOME IS SUBJECT TO NRA WITHHOLDING**



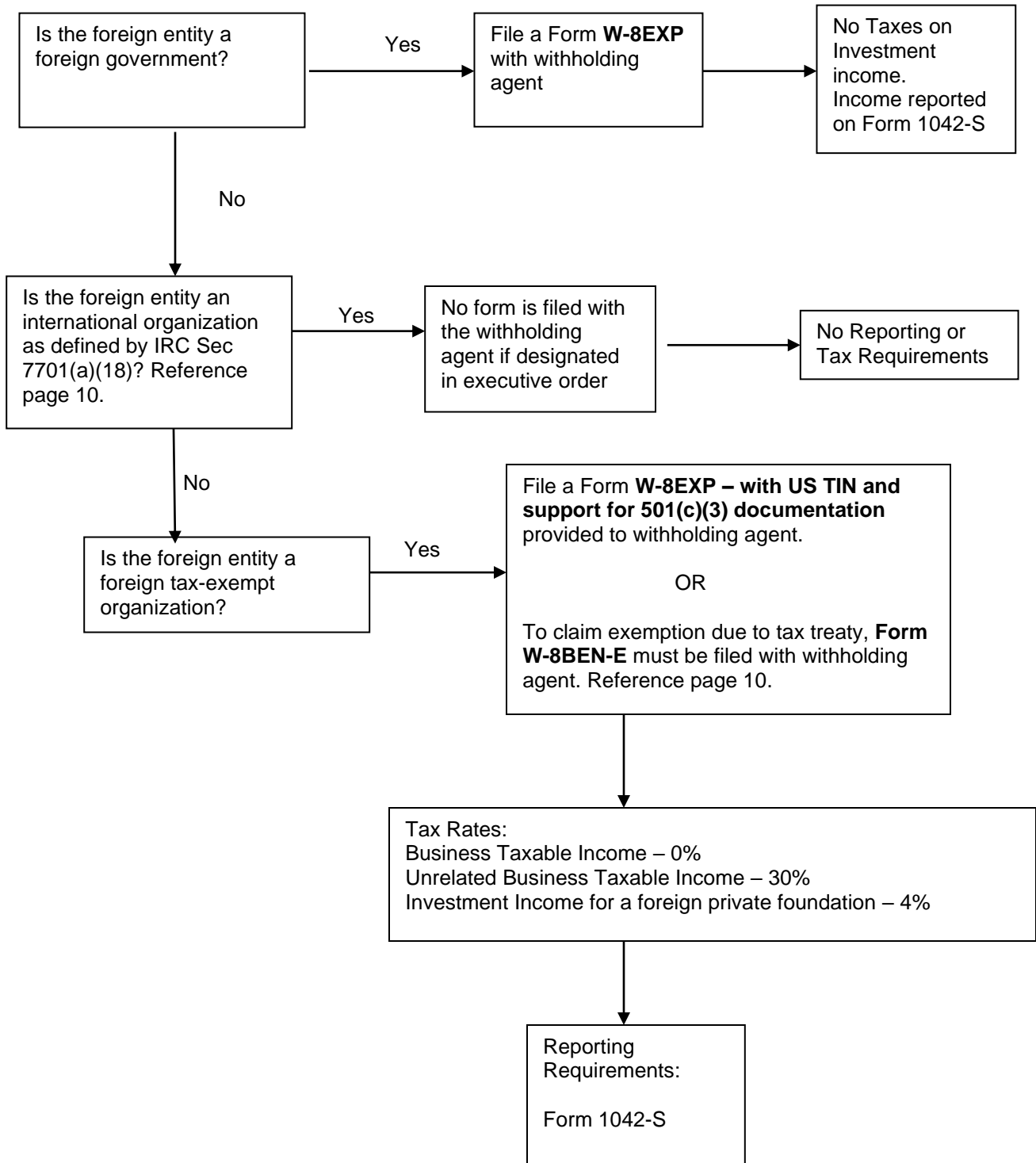
FLOW CHART:

STEP 3- PROCESSING, REPORTING, AND TAXING EFFECTIVELY CONNECTED INCOME PAYMENTS SUBJECT TO NRA WITHHOLDING – FOREIGN CORPORATIONS AND FOREIGN PARTNERSHIPS



FLOW CHART:

STEP 3- PROCESSING, REPORTING, AND TAXING EFFECTIVELY CONNECTED INCOME PAYMENTS SUBJECT TO NRA WITHHOLDING – OTHER FOREIGN ENTITIES



APPENDIX I

Nonresident Alien and Resident Alien Tax System – General Information

Generally, every person born or naturalized in the U.S. and subject to its jurisdiction is a citizen. All other individuals are referred to as "aliens" for immigration and taxation purposes. Aliens are classified as either "nonresident aliens" or "resident aliens". Section 1441 of the Internal Revenue Code provides a separate tax system with a different set of tax rules and regulations for individuals deemed to be nonresident aliens. Agencies making payments to nonresident aliens are subject to different tax withholding, reporting and liability requirements. It is important to understand that the definition of nonresident alien for tax purposes is different from that for immigration purposes. The special rules to determine whether an individual is a nonresident alien for tax purposes are included in this manual.

The general tax rule regarding nonresident aliens is that 30% federal tax must be withheld on all fixed and determinable payments of U.S. source income made to nonresident aliens unless the income is excluded under a specific provision in the Internal Revenue Code. Income includes, but is not limited to:

- Personal services of employees,
- Personal services of independent contractors
 - consulting fees
 - guest speaker fees
 - honoraria
 - prizes and awards
- Scholarships and fellowships paid to students
 - tuition
 - room and board
 - stipend/living allowance
 - books
- Royalty for the right to use some type of intangible or tangible property
- Travel grants
- Other purposes

Payments to aliens are handled through different departments, i.e. the Payroll System, Students Accounts or the Accounts Payable System within the agency, depending upon the tax residency status of the individual (resident or nonresident), the worker's classification (an employee or independent contractor), and the source of the payment (foreign or U.S.). These factors also affect the applicability of federal reporting and taxation.

Care should be taken to ensure that the proper amount of tax is withheld from payments made to nonresident aliens. Section 1461 of the Internal Revenue Code states that a withholding agent is liable for the income tax that must be withheld from payments made to or on behalf of a nonresident alien. Thus, if the agency fails to withhold the requisite tax and the nonresident alien payee fails to pay the tax due, the agency will be liable for the tax required to be withheld. There are also penalties associated with the failure to correctly report the income to the IRS, or failure to pay or deposit the tax when due. Agencies may also be liable for penalties and interest, unless it can be shown that the failure to pay or file was due to reasonable cause and not willful neglect.

All compensation paid to nonresident aliens for services performed in the U.S. is subject to these requirements and procedures. Agencies that employ or contract with nonresident aliens are required to maintain an understanding of the Internal Revenue Code and Treasury Regulations related to nonresident aliens. A person should also be designated to maintain a working knowledge of the Immigration Act of 1990, amendments to the Act and regulations promulgated pursuant to the Act.

APPENDIX II

U.S. Immigration Law and Authorization to receive U.S. payments

This section is authored by Lowell G. Hancock, Issue Specialist, IRS Foreign Payments Branch, Washington, DC.

"A very basic knowledge about U.S. immigration laws is essential to understanding the taxation of aliens in the United States because the treatment of aliens under the internal revenue and social security laws of the United States is based, in part, on the status of such aliens under the immigration laws of the United States.

An alien is any person who is not a citizen of the United States. The immigration laws of the United States are administered by U.S. Citizenship and Immigration Services (USCIS) formerly the Immigration and Naturalization Service (INS); although the U.S. Department of State in its embassies and consulates abroad determines initially which aliens will be allowed to enter the United States. **The immigration laws classify all aliens into three basic categories: (1) immigrants, (2) nonimmigrants, and (3) illegal aliens.**

Immigrants have the right to reside permanently in the United States, and sooner or later will come into possession of that most coveted of documents known as the "green card" (USCIS form I-551 – Permanent Residence). The green card is the tangible evidence of a person's immigrant status. It allows the alien who possesses it to reside permanently in the United States, to enter and leave the United States at will without having to resort to visas or reentry permits, and to earn self-employment and employment income in the United States under the same conditions as would apply to a U.S. citizen.

A 'nonimmigrant' is an alien who is allowed to reside temporarily in the United States. A nonimmigrant has represented to the U.S. Department of State and to the DHS that he/she is a permanent resident of a foreign country to which he/she fully intends to return after his temporary stay in the United States has come to an end. Most nonimmigrants enter the United States with the permission of the U.S. Department of State, and they bear written evidence of this fact in their passports in the form of a 'visa' which is usually stamped by a U.S. embassy or consulate abroad on one of the pages in the nonimmigrant's passport.

A nonimmigrant visa allows a nonimmigrant to enter the United States in one of several different categories that correspond to the purpose for which the nonimmigrant is being admitted to the United States. For example, a foreign student will usually enter the United States on an F-1 visa, a visitor for business on a B-1 visa, an exchange visitor (including students, teachers, researchers, trainees, alien physicians, au pairs, and others) on a J-1 visa, a diplomat on an A or G visa, etc. The categories of nonimmigrant visas correspond exactly to the "nonimmigrant status" assigned to each nonimmigrant upon his arrival, based on the purpose for which the nonimmigrant was admitted to the United States. A description of traditional visa types is provided in Appendix III."

A matrix of acceptable visa types for eligible state entity payment to aliens is provided in Appendix IV.

APPENDIX III

Traditional Alien Visa Types and Descriptions for State Payments

The type of visa that an employee, student, or independent contractor holds determines the types of payment remuneration that an individual may receive. Certain visas are **not eligible** to receive any type of payments.

1. Immigration Visas

The U.S. Department of State is responsible for the issuance of U.S. passports and immigrant visas to the United States. An immigrant visa is issued to an individual who intends to reside in the U.S. permanently. Immigrant visas are usually obtained when a relative of the prospective immigrant or a U.S. employer wishing to provide work for the alien files a petition with the USCIS. Individuals entering the United States with an immigrant visa are issued a photo-identification card, commonly known as the "green card." Green cards, now known as Permanent Resident cards, are **I-551 cards** containing the bearer's photo, fingerprint, and signature.

2. Non-Immigration Visas

- **A-1, A-2, and A-3** visa holders are foreign government officials. They are aliens coming temporarily to the United States who have been accredited by a foreign government to function as ambassadors, public ministers, career diplomat or consular officers, other accredited officials, or attendants, servants or personal employees of an accredited official, and all of the above aliens' spouses and unmarried minor (or dependent) children.
 - **A-1 and A-2** visa holders are only authorized to work for the foreign government, which accredited them. A-1 and A-2 visa holders should not accept any situation that would permit them to receive honorarium payments – this is strictly disallowed. It is recommended that anyone wishing to provide an activity, which an honorarium would be paid, enter the U.S. in a visitor status. **A-1 and A-2** immediate family members may obtain work authorization in the form of a fully executed Form I-566, endorsed by the Department of State. **A-3 visas** are only authorized to work for the A-1 or A-2 visa holders who hired them. Immediate family members of **A-3** visa holders are not authorized to work and cannot be paid.
- **B visas** are issued to nonresident aliens who are visiting the United States temporarily for business or for pleasure. The B classification is divided into two types, visitors for business (B-1) and visitors for pleasure (B-2). Under the American Competitiveness and Workforce Improvement Act of October 21, 1998, B-1/B-2 visa holders under special circumstances may receive honorarium payments and reimbursement of associated incidental (usually travel) expenses for services in the U.S. B-1 Business Visitor may not accept employment in the United States, an individual in B-1 status cannot complete a Form I-9, Employment Eligibility Verification. Therefore, a B Visitor cannot be paid salaries or wages from U.S. sources. Section 212(p)(1) of the INA, as amended by ACWIA, defines the relevant institutions and organizations as (which does not include State Agencies):
 - an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity; or
 - a nonprofit research organization or a Government research organization.

The payments must be for usual academic activities such as giving a speech or lecture, presenting a paper, participating in a panel, or other similar activities lasting no longer than 9 days at any single institution, and must be made by an institution of higher education, a related or affiliated nonprofit entity, or a nonprofit or Governmental research organization. The alien cannot accept such payments from more than 5 institutions or organizations in a six-month period.

If the above-mentioned criteria are not met, the B visa holder may only receive the remuneration allowed under the current DHS regulations that are in effect. Under these regulations B-1 visa holders are only eligible to receive reimbursement for travel expenses and per diem. Prior to 2006, foreign visitors in the U.S. on a B-2 visa were prohibited from receiving payments of any kind for any reason. Payments made on behalf of B-2 visa holders for such things as lodging or transportation were also prohibited. An easing of these rules came when an IRS general information letter from the Office of the Assistant Chief counsel was published, allowing B-2's already in the U.S. to accept an honorarium for a speaking engagement.

- **F-1 visa holders** are students with an academic studies classification. They are permitted to have temporary employment on the campus to which they are a student. They are limited to 20 hours/week during school sessions but may work full time during holidays and summer break. F-1 students may only be employed when school is not in session if the student intends and is eligible to register for the next term or session. This requires an Employment Authorization Document from USCIS, which should be expected to take 90 days to process. On-campus employment may be performed either on the school's premises or at an off-campus location that is educationally affiliated with the school. See details of CPT and OPT noted below. See Extension of Optional Training Program for Qualified Students Attachment for additional guidance.
 - **Pre-Completion Curricular Practical Training (CPT):**

F-1 students may also be employed as part of their curricular practical training while they are students. This may consist of alternate work/study, internship, cooperative education, or any other type of required internship or practicum offered by sponsoring employers through cooperative agreements with the school but must be directly related to the student's major area of study. Further the student is only permitted to work part-time while school is in session. The student may work full time when school is not in session. The document required to establish employment eligibility to employers is the Form I-20 certified by the designated school official (DSO) from the student's approved institution and by making appropriate notation in SEVIS. Curricular practical training authorization is job specific, employer specific and date specific. *The employing agency is not responsible for any part of this process or for reviewing documentation other than the Forms I-94 and endorsed I-20. The student may begin engaging in CPT only after an application has been approved (no EAD will be issued for CPT).*
 - **Post-Completion Optional Practical Training (OPT):**

Upon graduation, the F-1 student is permitted to continue their visa status under the Optional Practical Training program. They are permitted to work full time to gain a maximum of 36 months of professional work experience (STEM extension), which must be directly related to the student's major area of study. The student is issued an Employment Authorization Card, I-765 Card and permitted to work until the expiration date of the card. *The student may begin engaging in OPT only after an application has been approved and an EAD has been issued. Note: All periods of CPT are deducted from the available periods of OPT.*
- **F-2 visa holders** are dependents of F-1 students and are not authorized to work.
- **H-1B** classification provides an opportunity for "specialty workers" to accept employment in the United States. H-1B Specialty Worker status must be obtained through petition to DHS by an American employer or by a foreign employer licensed to do business in the United States, who must follow prescribed procedures. H-1B Specialty Worker status may be granted for an initial period of up to three years. The status, which does not require a foreign residence, allows the H-1B Worker to fill a permanent position as long as he or she is in that status. Once the status ends the Worker must depart the U.S. unless proper steps have been taken to adjust to a new status. H-1B status can be extended to up to six years, with additional extensions available for certain

specified situations. The employer must request an extension prior to the expiration of the H-1B Worker's status.

An H-1B Specialty Worker is not permitted to work for any employer in the United States other than the one for which DHS approved the H-1B. In order to change to a new employer, the new employer must submit a petition for H-1B Specialty Worker status for the employee. An H-1B Specialty Worker may work for the new employer upon the filing of the new petition without waiting for the notice of approval. An H-1B Specialty Worker for whom an application for extension has been timely submitted may continue to work for 240 days while the application for extension is being processed by INS. If the application is denied, the employer may no longer employ the worker.

An H-1B Worker must obtain a U.S. social security number (SSN) to be used by the individual's U.S. employer to submit Form W-2, Wage Reports, for the employee. In most cases, the H-1B Worker's SSN will bear the annotation "valid only with DHS authorization."

- **H-4** Dependent spouses of H-1B can file form I-765 – Application for Employment Authorization, effective May 26, 2015. The EAD card will be issued with category C(26).
- **J-1** visas are issued to participants in the exchange visitor (J) nonimmigrant visa category for individuals who are approved to participate in the exchange visitor programs in the United States. Therefore, before you can apply for a J visa the applicant must meet the requirements and be accepted in one of the Exchange Visitor Program categories (see page 26) through a designated sponsoring organization. A J-1 scholar may only work for the sponsoring employer. Sponsors may allow professors and research scholars to participate in occasional lectures and short-term consultations. Such lectures and consultations **must** be incidental to the exchange. The occasional lectures or short-term consultations must be **directly related** to the objectives of the exchange visitor's program, incidental to the exchange visitor's primary program activities; and not delay the completion date of the visitor's program. Additionally, any payment for travel may be determined to be a travel grant and taxable. Further information is necessary to make this determination.

To obtain authorization to engage in occasional lectures or short-term consultations involving wages or other remuneration, the exchange visitor shall present to the responsible officer a letter from the officer setting forth the terms and conditions of the offer to lecture or consult. The letter must include the duration, number of hours, field or subject, amount of compensation, and description of such activity; and a letter from his or her department head or supervisor recommending such activity and explaining how it would enhance the exchange visitor's program.

The responsible officer shall review the letters and make a written determination whether such activity is warranted and satisfies the above criteria. At the discretion of the responsible officer, professors may freely engage in research and research scholars may freely engage in teaching and lecturing, unless disallowed by the sponsor. Because these activities are so intertwined, such a change of activity will not be considered a change of category necessitating a formal approval by the responsible officer or approval by the Agency.

Exchange visitor and student information is maintained in the Student and Exchange Visitor Information System (SEVIS). SEVIS is an internet-based system that maintains accurate and current information on non-immigrant students (F and M visas), exchange visitors (J visa), and their dependents (F-2, M-2, AND J-2). SEVIS enables schools and program sponsors to transmit mandatory information and event notification via the internet, to the Department of Homeland Security and Department of State (DOS) throughout a student or exchange visitor's stay in the United States. All exchange visitor applicants must have a SEVIS generated DS-2019 issued by a Department of State designated sponsor, which they submit when they are applying for their exchange visitor visa. The consular officer will need to verify you DS-2019 record electronically through the SEVIS system in order to process the Foreign National's exchange visitor visa application to conclusion.

The studies that a **J-1 exchange visitor student** performs may be virtually indistinguishable from foreign students in F-1 status, different rules apply. Some exchange programs allow participants to be employed in their specialty fields, while other programs restrict participants to study or research. In all cases, as with F-1 students, agencies must insure that J-1 employees not only are lawfully permitted to work (and, if so, to work for them) but that they are only employed during the period for which they have been approved to remain in the U.S. Permissible employment, if any, should be indicated on the Form DS-2019 of those J-1 visitors whose USIA (U.S. Immigration Act)-approved program guidelines permit employment. Generally, this employment is employer specific, meaning that the individual may work only for the employer that sponsored him/her for J-1 status or has been approved by the applicable USIA program. In cases where the DS-2019 is not clear with respect to given employment, employers may wish to review the individual's Form I-94 and/or written approval of the J-1 program official. An Employment Authorization Document (EAD) in addition to the DS-2019 authorization is not required.

Form I-9, Employment Eligibility Verification, must be completed if the J Non-student Exchange Visitor will be receiving compensation for employment.

The initial admission of an exchange visitor, spouse and children may not exceed the period specified on Form DS-2019, plus a period of 30 days for the purpose of travel. The 30-day grace or travel status period is intended to be a period following the end of the exchange visitor's program and is to be used for domestic travel and/or to prepare for and depart from the U.S., and for no other purpose.

Foreign Nationals who enter the United States in J-1 immigration status may be subject to a two-year home-residency requirement under section 212(e) of the Immigration and Nationality Act. J-1 Exchange Visitors subject to 212 (e) may not adjust to another status authorizing employment without first returning home for two years or obtaining a "no objection letter" from the home country government.

- **J-2 and L-2** spouses may be employed if authorized by the DHS.
- **M-1** visa holders are nonimmigrant aliens entering the United States as a student for vocational training. The rules for employment are the same as the **F-1 visa holders**.
- **O-1** visa holders are nonimmigrant aliens with extraordinary ability in the areas of science, education, business, athletics or the arts. Work is authorized for sponsoring employer only.
- **Q** visas are issued to participants in international cultural exchange programs for the duration of the program, but no longer than fifteen months. The purposes of these exchange programs are to provide practical training, employment and the sharing of the history, culture and traditions of the country of the alien's nationality. Q visa holders are authorized to work only for the sponsoring employer.
- **TN** Trade NAFTA is a special non-immigrant classification in the U.S. that offers expedited work authorization to a citizen of Canada or a national of Mexico, created as a result of provisions of the North American Free Trade Agreement that mandate simplified entry and employment permission for certain professionals from each of the three NAFTA member states in the other member states.

Once TN status is granted, it is valid for up to three years, but **only for the specific employer** for which it was originally requested.

- **VWT** is a visa waiver for tourism. No work authorization. Eligible to receive reimbursement for travel expenses and per diem, similar to a B-2.
- **VWB** is a visa waiver for business purposes. No work authorization. Eligible to receive reimbursement for travel expenses and per diem, similar to a B-1.

Note: Visa Waiver Countries

Individuals may enter the U.S. for up to 90 days without a visa if they are nationals from the following countries: Andorra, Austria, Australia, Belgium, Brunei, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Republic of Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Poland, Portugal, San Marino, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Taiwan, and the United Kingdom. This list of participating countries changes on an on-going basis, thus, you should consult the web site of the Bureau of Consular Affairs of the U.S. State Department at <http://travel.state.gov> to obtain the latest list. Individuals entering the U.S. under the visa waiver project should be treated as if they had entered with a temporary visitor visa, either B-1 or B-2 according to the nature of the visit.

APPENDIX IV

Foreign National Information System Data Gathering Form

Use this form to gather information for each foreign national employee, contractor, or vendor that must be tracked in the Windstar Tax Navigator. The information gathered on this form will be used to enter the data into the Foreign National Information System (FNIS) to be uploaded into Tax Navigator at a later date.

It is the responsibility of each employer to ensure expiration of work authorization is properly tracked.

Foreign National Information System Data Gathering Form

Screen 1 Information	
Title (Dr., Mr., Mrs., Miss):	
Last Name:	
First Name:	
Middle Name:	
Post Title:	
Student Type (Grad., Medical, Post Doc., Post Grad., Undergrad, N/A):	
Trainee Type (Business, Professional, Technical, N/A):	
Your SSN / ITIN:	
Applied for SSN / ITIN:	
Institution-Assigned ID Number (optional):	
Department at Institution:	
Occupation at Institution (please be specific with title):	
Foreign Taxpayer ID:	

Screen 2 Information	
Date of Birth:	
Marital Status (single, married or unknown):	
Spouse in USA (if not married, answer "N/A")?:	
Spouse Working in USA (if not married, answer "N/A")?:	
Total Number of Dependents:	
Number of Dependents Who Were with Me in the U.S. at Some Time in the Calendar Year:	
Number of Dependents Who Are U.S. citizens or Residents:	
Home Phone:	
Day Phone:	
Fax:	
Email Address:	
Date First EVER entered USA (DD-Month-YYYY):	
Do you wish to claim person exemption (Yes or No):	

Screen 3 Information	
U.S. Address Line 1:	
U.S. Address Line 2:	
U.S. Address Line 3:	
City:	
State:	
Zip code:	
Foreign Address Line 1:	
Foreign Address Line 2:	
Foreign Address Line 3:	
Foreign City:	
Province/Region:	
Postal Code:	
Country of Residence Address:	

Screen 4 Information	
Country of Passport/Citizenship:	
Passport Number:	
Passport Expiration Date:	
U.S. citizen (Yes or No)?:	
Country of Tax Residence Before Entering US:	
Office in USA (Yes or No)?:	
Days of Office Availability:	
Recipient of Foreign Grant (Yes or No)?:	
Proven Closer Connection to foreign country than U.S.(Yes or No)?:	
Application for Legal Permanent Resident (Yes/NO)?	
In Full-time Program (if so, list program)?:	
Do you wish to claim treaty benefits (if available – Yes or No)?:	

VISA / IMMIGRATION STATUS HISTORY – Visa Type F, J, M, Q – provide details since January 1, 1985

Screen 5 Information	<i>See TAB - Immigration Status Codes for HELP. If additional space is needed, please attach spreadsheet.</i>
Visa Record # 1	
Immigration Status (Visa Type):	
J Subcategory (J1 & J2):	
Primary Purpose of Visit:	
Tax Residence:	
Treaty benefit taken as:	
Visa Number:	
First day in USA:	
Last Day in USA:	

Visa Record # 2	
Immigration Status (Visa Type):	
J Subcategory (J1 & J2):	
Primary Purpose of Visit:	
Tax Residence:	
Treaty benefit taken as:	
Visa Number:	
First day in USA:	
Last Day in USA:	

Visa Record # 3	
Immigration Status (Visa Type):	
J Subcategory (J1 & J2):	
Primary Purpose of Visit:	
Tax Residence:	
Treaty benefit taken as:	
Visa Number:	
First day in USA:	
Last Day in USA:	

I hereby authorize North Carolina Office of the State Controller to release this information to Thomson Reuters (Tax & Accounting) Inc., 2395 Midway Road, Carrollton, TX 75006 for the following purpose: technical software support for the International Tax Navigator system.

I consent to allow the Foreign National Tax Compliance Team to access my electronic I-94 record and/or travel history using the U.S. Customs and Border Protection's online I-94 retrieval system at www.cbp.gov/i94.

I hereby certify under penalty of perjury that all of the following information is true, complete and correct. I understand that if my status changes from that which I have indicated on this form I must submit a new form to the appropriate department.

Foreign National Signature

Date:

Agency Authorized Signature

Date:

Data Gathering Form
Immigration Status Codes

IMMIGRATION STATUS (VISA TYPES)

A-1 Foreign Government Worker	K-1 Fiancé of U.S. Citizen
A-2 Other Foreign Government Official and Family	L-1 Intracompany Transferee
A-3 Attendant, Servant or EE of A-1 or A-2, and Family	L-2 Intracompany Transferee Dependent
ACPR Abandoned Contingent Permanent Resident	LPR U.S. Lawful Permanent Resident
ALPR Abandoned Lawful Permanent Resident	M-1 Non-Academic Student
ASLM Political Asylum	M-2 Non-Academic Student Dependent
B-1 Visitor for Business	M-3 Border Commuter Non-Academic Student from Canada or Mexico
B-2 Visitor for Pleasure	N-8 Parent of SK-3 Special Immigrant
B-2P Prospective Student/Scholar	N-9 Child of N-8 or SK-1, SK-2, or SK-4 Special Immigrant
C-1 Continuous Transit Alien	NAC Native American - Canadian
C-2 Alien in Transit to UN Headquarters	NAI Native American Indian
C-3 Foreign Official, Family, Servants in Transit	NATO
CFA Compact of Free Association Country National	NAU Native American - US
CPO Chinese Protective Order - Oct 90	O-1 Alien of Extraordinary Ability in Sciences, Arts, Education
CPR Conditional Permanent Resident	O-2 Accompanying Alien
D-1 Crewman	O-3 Spouse or Child of O-1 or O-2
DVI PR Lottery Winner	OUTS Out of Status
E-1 Treaty Trader	P-1 Performing Entertainer or Athlete
E-2 Treaty Investor	P-2 Exchange Program Artist or Entertainer
E-3 Australian Specialty Worker	P-3 Culturally Unique Artist or Entertainer
EWI Entry Without Inspection	P-4 Dependent of P-1, P-2, P-3
F-1 Student	PAA Pending Adjustment Applicant
F-2 Student Dependent	PARL Parole
F-3 Boarder Commuter Student from Canada or Mexico	Q-1 Cultural Exchange Visitor
G-1 Foreign Government Visitor	Q1 old Q-1 Cultural Exchange Visitor
G-2 Other Representative of Foreign Member Government	R-1 Religious Worker
G-3 Representative of Non-recognized Government and Family	R-2 Religious Worker Dependent
G-4 International Organization Officer or Employee and Family	RFGE Refugee
H-1B Worker in Specialty Occupation	SK-1 Special Immigrant (SK-1)
H-2B Temporary Worker	SK-2 Special Immigrant (SK-2)
H-3 Temporary Trainee	SK-3 Special Immigrant (SK-3)
H-4 Worker Dependent	SK-4 Special Immigrant (SK-4)
H1-A Professional Nurse (H1-A)	TD Dependent of TN Visa Holder
H1-C Professional Nurse (H1-C)	TN Canadian or Mexican Citizen Professional
H1B1 Specialty Occupation	TPR Temporary Permanent Resident
H1B2 Exceptional Services/DOD	TPS Temporary Protective Status
H1B3 Artist/Athlete of Acclaim	United States National
H1B4 Athlete (H1B4)	VW Visa Waiver (Select which subtype: VWB or VWT)
H1B5 Athlete (H1B5)	VWB Visa Waiver business
H1BS Essential Support	VWBP Visa Waiver Business Parolee
H2-A Temporary Worker Performing Agricultural Services	VWT Visa Waiver Tourist
I Representative of Foreign Media, Spouse, Children	VWTP Visa Waiver Tourist Parolee
ILLG Illegal Entry	WB1 Canadian Walkover for Business
J-1 Exchange Visitor	WB2 Canadian Walkover for Pleasure
J-2 Exchange Visitor Dependent	

Data Gathering Form

Immigration Status Codes

J1 & J2 Sub Categories	PURPOSE OF VISIT
Alien Physicians	Board of Director Activities
Au Pair	Business Activities
Intern	Clinical Activities
Other – Camp Counselors	Conducting Research
Other – Government Visitors	Consulting
Other – International Visitors	Demonstrating Special Skills
Professors	Educational/Professional Activities
Research Scholars	Green Card Pending
Short-Term Scholar	Here with Spouse/Relative
Specialists	In Transit
Student	Lecturing
Student Intern	Living/Working Abroad
Student Summer Travel/Work	Living/Working in US
Teachers	Observing
Trainees – Medical	Performing as an Artist
Trainees – Non-Medical	Performing as an Athlete
	Practical Training/J-1, F-1
	Studying in Degree Program
	Studying in Non-Degree Program
	Summer Travel/Work
	Supporting as an Artist/Athlete
	Teaching Temporary Employment
	Tourist Activities
	Training
	Unrelated Business Activities

APPENDIX V

VISA/ PAYMENT MATRIX

ELIGIBLE PAYMENTS TYPES BASED ON VISA TYPES

Visa Type	Visa Description	Employee Wages	Independent Contractors	Honoraria	Travel* Reimbursement	Scholarships / Fellowships
A-1	Foreign Gov't Officials	No	No	No	Yes	Yes
A-2	Foreign Gov't Officials	Yes ^①	No	Yes ^①	Yes	Yes
B-2 & VWT	Visitor for Pleasure	No	No	Yes ^②	Yes	Yes
B-1 & VWB	Visitor for Work	No	Yes ^④	Yes ^②	Yes	Yes
F-1	Students	Yes	Yes	No	Yes	Yes
F-2	F-1 Spouse or Dependent	No	No	No	No	Yes
H-1A	Aliens in Health Spec. Occupations	Yes	No	No	Yes	Yes
H-1B	Professional	Yes	No	No	Yes	No
H-4	H-1 Dependent	Yes	No	No	No	Yes
J-1 (agency sponsored)	Exchange Visitor (students, scholars, trainees)	Yes	Yes	Yes	Yes	Yes
J-1 (sponsored by another agency)	Same as above	Yes ^③	No	Yes ^③	Yes	Yes
J-2	J-1 Spouse or Dependent	Yes ^①	Yes	Yes ^①	Yes	Yes
O-1	Extraordinary Ability in Sci., Edu., Bus., Art or Athletics	Yes	Yes	No	Yes	Yes
P-1	International Athlete or Ent. Group	Yes	Yes	Yes	Yes	No
Q-1	Intl cultural exchange	Yes	Yes	Yes	Yes	Yes
TN	NAFTA Professionals	Yes	No	No	Yes	No
TD	TN Spouse or Dependent	No	No	No	No	Yes

Note: Honoraria payments are limited to individuals who are not present for more than 9 days on site.

① Must have work authorization card issued by INS.

② May not visit more than 5 institutions in 6 months.

③ Must have permission from host sponsor for J-1 to receive any payment

④ Independent Contractors on a B1 visa or VWB has a time limitation to 9 days.

* Additional information on Travel Grants (Expenses)-see pages 29-31

Travel Grants (Reimbursements of travel expenses):

This section is authored by Paula N. Singer, Esq., Co-founder and Chairman of Windstar Technologies, Inc. and partner in the tax law firm, Vacovec, Mayotte & Singer LLP, Netwon, MA.

“Generally, payments made to or on behalf of individuals are income subject to income tax and to withholding and reporting unless an exception applies. Determining when an exception applies is not always easy. This is especially the case with regard to reimbursed travel expenses.

The Code

Section 61(A) (1) of the Internal Revenue Code (“the Code”) provides that gross income means all income from whatever source derived, including compensation for services. Section 117 of the Code provides an exception from tax for qualified scholarship and fellowship income. In contrast, nonqualified scholarship and fellowship grants are subject to tax. As a result of these Code provisions, payments and reimbursements for travel expenses are includable in the gross income of the recipient unless an exemption is provided by the Code or an income tax treaty. This is the case even when the payments and reimbursements are made to a third party, such as an airline or hotel rather than to the individual.

It is not the fact that payments and reimbursements are for travel expenses or the fact that the expenses are made or reimbursed through an expense report that determines whether the amounts shall be taxed or excluded from income. Rather, it is **the activity to which the travel expenses are attributable** that determines in the first instance how travel expenses payments and reimbursements shall be taxed – employment or self-employment services, studying or, non-service related training or research. It is the character of that income – wages, self-employment compensation, noncompensatory scholarship, or fellowship grant - that determines the exceptions that may be used to avoid the tax when conditions for the exception are met.

Excludable Travel Expenses

The most common exception from taxation for travel expense payments and reimbursements is the deduction from income allowed by Section 162 of the Code for travel expenses for lodging, meals, and incidentals (other than amounts which are lavish or extravagant under the circumstances) paid or incurred while the recipient is away from his tax home in the pursuit of a trade or business. When these business expenses are made under an accountable plan as allowed by Section 62(c) and described in Treas. Reg. Section 1.62-2, they are not subject to withholding or reporting.

In order for payments and reimbursements to be excluded from income within this framework, the travel expenses must:

1. Have a business connection
2. Be paid or incurred for travel while the recipient is “away from home”
3. Be paid or reimbursed under an accountable plan

If any one of these requirements is not met, the payments and reimbursements are subject to tax, withholding, and reporting in accordance with the character of the income unless another exception applies.

One exception related to travel expenses applies when the expense is incurred primarily for the benefit of the employer. For example, the IRS has ruled that allowances and reimbursements made to individuals by a prospective employer for reasonable expenses such as transportation, meals, and lodging incurred in connection with interviews for possible employment are not includable in the individual’s income to the extent that the amount does not exceed the expenses incurred (Rev. Rul. 63-77, 1963-1 C.B. 177).

Business Connection Requirement

Section 62(a)(1) of the Code provides that the term “adjusted gross income” means gross income minus deductions attributable to a trade or business carried on by the taxpayer, if such trade or business does not consist of the performance of services by the taxpayer as an employee. Section 62(a)(2)(A) provides that the

term "adjusted gross income" means gross income minus the expenses paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer. An arrangement meets the business connection requirement if the employer pays advances, allowances (including per diem allowances) or reimbursements only for deductible business expenses that the employee pays or incurs while performing services for the employer.

Section 132(a) (3) of the Code provides that gross income shall not include any fringe benefit which qualifies as a working condition fringe. Section 132(d) defines the term "working condition fringe" as any property or services provided to an employee of the employer to the extent that, if the employee paid for such property or services, such payment would be allowable as a deduction under section 162 (trade or business expense...). For purposes of working condition fringes, Treas. Reg. Section 1.132-1(b) (2) provides that the term "employee" includes "any independent contractor who performs services for the employer."

Therefore, payments and reimbursements for travel expenses attributable to the performance of services by either an employee or a self-employed individual for an employer may be excluded from income if they meet the "away-from-home" requirement and are paid or reimbursed under an accountable plan.

Not included under these rules are payments and reimbursements for travel that is attributable to the study, training, or research of the recipient for which no services are required in return. These travel expense payments and reimbursements (called "travel grants") are fully taxable unless another exception applies to exempt them from tax. Also not included under these rules are reimbursements for travel expenses of an individual made to a third party rather than to or on behalf of the individual."

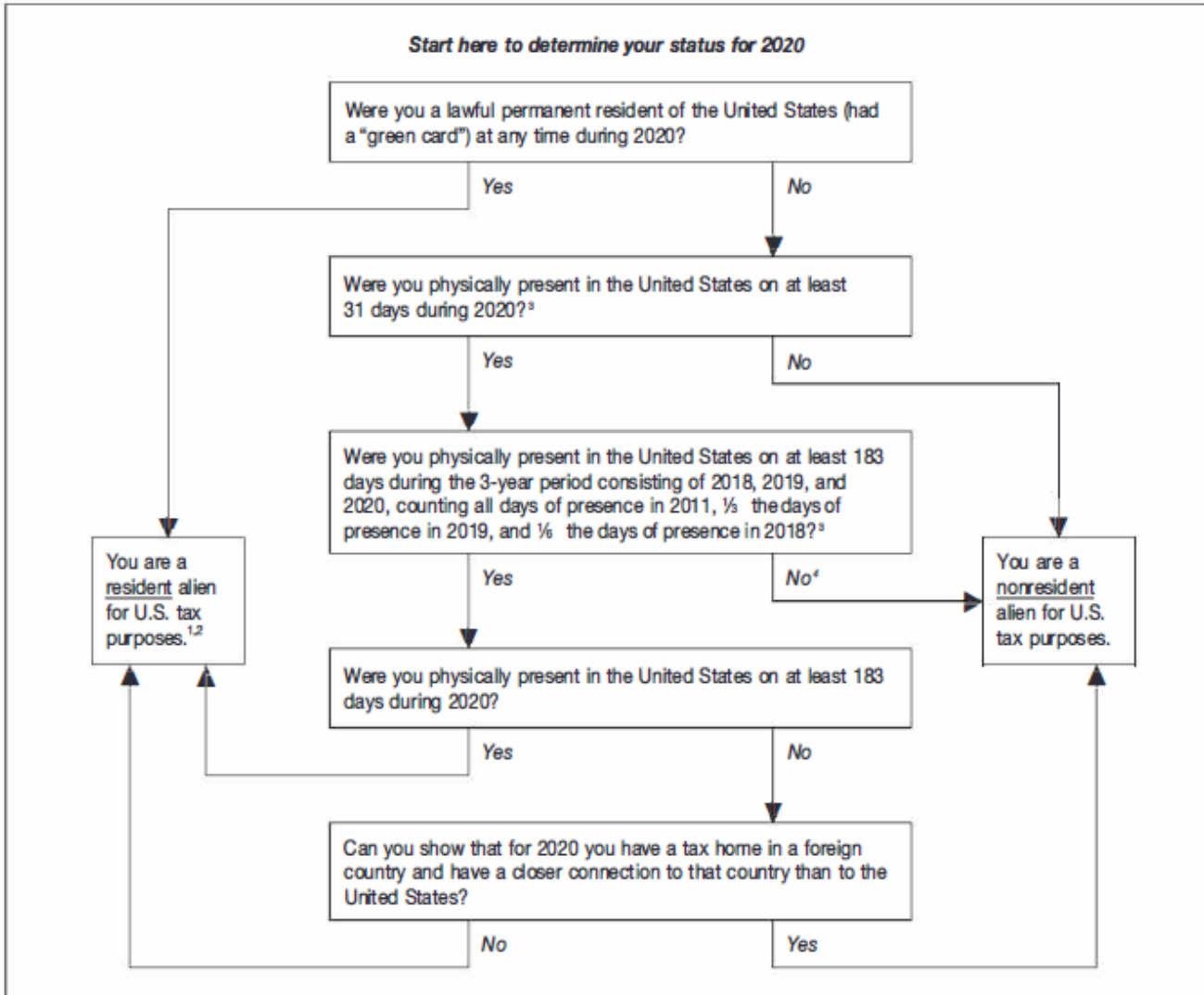
Visa and Travel Reimbursement Payment Chart for Schools and Agencies

Visa Type	Tax Procedure	Tax Liability
F-1 Student CPT, OPT	Related to work authorization, should fall under the accountable plan.	0%
F-1 Student	Non-service activities require no work authorization; considered a Travel Grant.	14% or 30%
Visiting F-1 Student	Should be considered a Travel Grant. Need a letter from host school giving the student permission to be on campus. No other immigration restrictions.	14%
J-1 Student	Related to work authorization, should fall under the accountable plan. Non-service activities require no work authorization; considered a Travel Grant.	0%,14%, 30%
Visiting J-1 Student	Should be considered a Travel Grant. Need a letter from host school giving the student permission to be on campus. No other immigration restrictions.	14%
J-1 Trainee	Should be considered a Travel Grant. Only on rare occasions can travel fall under the accountable plan. No immigration restrictions.	14%
Visiting J-1 Trainee	Should be considered a Travel Grant. Need a letter from host school giving the student permission to be on campus. No other immigration restrictions.	14%
J-1 Researcher	Usually, a researcher is considered an employment position. Travel should fall under the accountable plan. No immigration restrictions.	0%
Visiting J-1 Researcher	Should require a letter from host school giving the visiting researcher permission to be on campus. A researcher is usually considered an employment position. Travel should fall under the accountable plan. If not, then taxable at 30%. No other immigration restrictions.	0% or 30%
H-1B, TN or O	H-1B, TN and O are considered employment visas. Travel should fall under the accountable plan. No immigration restrictions.	0%
H-1B transfer to School/Agency	Work-related expenses can be reimbursed, after H petition with School/Agency is filed with immigration service, in limited circumstances. H-1B is considered an employment visa. Travel should fall under the accountable plan.	0%
B-1/B-2/VWT/WB	Immigration rules allow for reimbursement of travel expenses and per diem only. Potentially reimbursable under the accountable plan or taxable at 30%.	0% or 30%

APPENDIX VI

Substantial Presence Test from IRS Publication 519,
U.S. Tax Guide for Aliens (<http://www.irs.gov>)

IRS Publication 519 - Figure 1-A. Nonresident Alien or Resident Alien?



¹ If this is your first or last year of residency, you may have a dual status for the year.

² In some circumstances you may still be considered a nonresident alien under an income tax treaty between the U.S. and your country. Check the provisions of the treaty carefully.

³ -F, J, M, Q visa holders who are students do not count days towards substantial presence test during the first five calendar years of their student status. Maximum time for exempting days as a student is 5 calendar years one time.

-J and Q visa holders who are not in student status do not count days towards substantial presence test for two years out of seven. The seven years consist of current year and the six years prior to it.

⁴ If you meet the substantial presence test for 2021, you may be able to choose treatment as a U.S. resident alien for part of 2020. For details, see *Substantial Presence Test under Resident Aliens and First-Year Choice under Dual-Status Aliens* in IRS Publication 519.

APPENDIX VII

Summary of Sourcing Rules for Income of Nonresident Aliens

Item of Income	Factor Determining Source
Dependent Personal Services: Wages, salaries	Where service is performed
Independent Personal Services: honoraria, independent contractors, consulting fees	Where service is performed
Business income: Personal Services Sale of Inventory	Where services performed Where sold
Interest	Residence of payor
Dividends	Whether a U.S. or foreign corporation
Rents	Location of Property
Royalties: Natural Resources Patents, copyrights, etc.	Location of property Where property is used
Sale of real property	Location of property
Scholarships/Fellowships	Residence of payor**
Pensions	Where services were performed that earned the pension
Prizes and awards	Residence of payor**
Sale of natural resources	Allocation based on fair market value of product at export terminal.
<p>** Activities to be performed outside of the United States. Scholarships, fellowship grants, targeted grants, and achievement awards received by nonresident aliens for activities to be performed; outside the United States are not U.S. source income.</p>	

APPENDIX VIII

Forms and Other Documents to Establish Withholding for Aliens

Resident Aliens Forms:

- **Form W-9, Request for Taxpayer Identification Number and Certification**
Aliens complete this form and file it with the withholding agent to establish their tax status as resident alien when they pass the substantial presence test.
- **Federal Tax Withholding (Form W-4)**
Resident aliens may claim filing status and withholding allowances using the same rules as U.S. citizens.
- **State Tax Withholding (Form NC-4)**
Resident aliens may claim filing status and withholding allowances using the same rules as U.S. citizens (complete the Personal Allowance Worksheet to determine allowances).
- **Form W-9, Modified to Claim Tax Treaty Benefits by a U.S. Person**
If an individual entered the United States as a nonresident alien but is now a resident alien for U.S. tax purposes, the treaty exemption will continue to apply if the tax treaty has an exception to the treaty's saving clause. If the resident alien qualifies under an exception to the treaty's saving clause and the payor intends to withhold U.S. income tax on the scholarship, fellowship, or other remittance, they can avoid income tax withholding by giving the payor a Form W-9 with an attachment that includes the following information:
 - Their name and U.S. identification number
 - A statement that you are a resident alien and whether you are a resident alien under the green card test, the substantial presence test, or a tax treaty provision
 - Tax treaty and article number under which you are claiming a tax treaty exemption, and description of the article
 - A statement that you are relying on an exception to the saving clause of the tax treaty under which you are claiming the tax treaty exemption

The above forms (if applicable) are filed and retained by the withholding agent.

Nonresident Aliens Forms:

- **Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding**
The individual alien completes this form and files it with the withholding agent to establish his tax status as nonresident alien. It puts the withholding agent on notice to withhold taxes at the prescribed rates for nonresident aliens. The withholding agent retains the form.

- **Federal Tax Withholding (Form W-4)**

The Internal Revenue code includes rules for taxing the income of nonresident aliens that differ from the rules for taxing the income of U.S. citizens and resident aliens. Nonresident aliens are taxed on the gross amount of U.S.-source income such as dividends, interest, rents, and royalties, and on income effectively connected to a U.S. trade or business (called “ECI”), after limited allowable deductions, at graduated single or married-filing-separately rates. ECI includes compensation from employment services performed in the United States.

Payroll Rules for Nonresident Employees

Special payroll rules apply to nonresident employees, some increasing withholding and others providing for exemptions from tax.

The federal wage withholding rules for nonresident employees mirror the tax return limitations for these taxpayers:

- They may be limited to the itemized deductions and adjustments
- They must file using single or married-filing-separately rates (the highest rates)
- They may not claim the standard deduction (except for residents from India who are students or business apprentices)
- They are not eligible for most tax credits

Special Form W-4 Rules

Because of the special tax rules that apply, nonresident aliens may not use the standard rules for completing Form W-4, Employee’s Allowance Withholding Certificate. Instead, when completing Form W-4, nonresident employees must follow the rules established in IRS Notice 1392.

To comply with these rules, self-service payroll processes must prevent nonresident employees from using the W-4 rules for U.S. citizens and residents.

The “Phantom Gross-up”

Under the payroll rules for nonresident employees, employers are required to calculate federal income tax withholding on wages under a special procedure. Before applying the wage withholding tables, they must add to the wages of nonresident employees an amount that varies by pay period to offset the assumed standard deduction that is incorporated into the wage tables.

The additional amount, which varies by payroll period and is updated annually, is determined from “Tables for Withholding Adjustment for Nonresident Aliens” available in IRS Publication 15-T, Federal Income Tax Withholding Methods.

These amounts do not affect income for Form W-2 purposes, Social Security or Medicare (FICA) wages or taxes, or wages for federal unemployment tax (FUTA) liabilities.

Students and business apprentices from India are not covered by the gross-up procedure for the standard deduction because they may use the standard deduction because of a special tax-treaty provision in the treaty with India.

- **State Tax Withholding (Form NC-4NRA)**

Starting in the 2015 tax year, the NC Department of Revenue implemented a new state withholding form for nonresident aliens, defined by the same rules as the federal government (individual has not passed the substantial presence test), which requires an employee who is in NRA tax status to complete the new NRA form annually. The required use of this form is due to North Carolina’s wage bracket tables, percentage method, and annualized method of computing the amount of income tax to be withheld incorporates the standard deduction allowed to most taxpayers in determining the amount to be withheld. However, nonresident aliens generally are not eligible for the standard deduction. Form NC-4 NRA requires the nonresident alien employee to enter on line 2 an additional amount of income tax to be withheld for each pay period to account for the inclusion of the standard deduction in the wage bracket tables, percentage, and annualized methods of computing income tax withheld. The additional tax to withhold per pay period is identified in a chart on page 2 of Form NC-4 NRA and represents the income tax on the

standard deduction for the single filing status divided by the number of payroll periods during the year. Due to the potential of the standard deduction increasing each year, employers must obtain a new NC-4NRA each year the foreign national remains in nonresident alien tax status. Please ensure you are calculating the substantial presence test at the beginning of each tax year, to determine which form is necessary. Reference the NC-30 for additional information. This form is updated annually by the employee and retained by the employer.

- **Form 8233, *Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual***

Nonresident aliens who want to receive an exemption from, or a reduced rate of withholding for certain income types must file Form 8233 with the withholding agent. The withholding agent is responsible for filing one copy of the completed Form 8233 plus statement referenced in the next paragraph with the Internal Revenue Service within 10 calendar days of acceptance. A copy is given to the nonresident alien. A copy is retained on file with the withholding agent.

Students, teachers, and researchers must attach and provide to the withholding agent the appropriate statement detailed in Appendix A and B in IRS Publication 519.

APPENDIX IX

Income Tax Treaties

An income tax treaty is an agreement entered into between two governments under which each country agrees to limit or modify the application of its domestic tax laws in an attempt to avoid having the same income taxed by both countries. Nonresident aliens of certain foreign countries may be entitled to reduced rates of, or exemption from, tax under a tax treaty between their country of residence and the U.S. These individuals must notify you that they are tax residents of a country with which the United States has an income tax treaty and qualify for reduced rates of, or exemption from, income tax withholding.

Most tax treaties to which the U.S. is a party provide for at least a partial exemption from tax for pay for labor or personal services performed in the United States by a qualified individual. Most tax treaties also include specific articles designed to foster education and cultural exchanges. These articles are directed at the taxation of students, trainees, teachers, and researchers.

Generally, the qualifying individual must be a tax resident of the treaty country. In some cases, the individual must be a citizen of the treaty country. It is possible to be a tax resident of one country, but be a citizen of another country (this is similar to the U.S. analyzing the tax residency of a foreign national and once you pass the substantial presence test, the foreign national will become a resident alien for tax purposes. An issue sometimes arises where an individual is a resident of both the U.S. and a foreign country. Under the Internal Revenue Code, an individual who possesses dual citizenship (including U.S. citizenship) will always be treated for tax purposes as a U.S. citizen. With respect to tax treaties, the residency articles of most tax treaties require the application of each country's domestic laws about residency as the first step in determining residency. In the case of the U.S., our domestic law automatically treats a U.S. citizen as a resident of the U.S. even though he/she lives abroad. It is only when the domestic laws of both countries determine that he/she is a resident of both countries, that the tie-breaker rules of the residency articles come into play to determine his/her residency under the treaty. However, please note that the saving clause of most treaties will almost always deny most treaty benefits on U.S. – sourced income to a U.S. citizen who resides in the treaty-partner country. Many treaties contain an article on the avoidance of double taxation, which usually simply reinforces the use of the foreign tax credit laws of each country.

Thus, to conclude, a dual citizen who is also a U.S. citizen, or a U.S. citizen who lives in a foreign country, is never treated by the U.S. as if he were an alien. He is automatically assumed to be a resident of the U.S. and must therefore use the Foreign Earned Income Exclusion or the Foreign Tax Credit to reduce or eliminate any U.S. federal income tax on his worldwide income. For reporting and withholding tax purposes on his U.S.--sourced income, you will treat him as you would any other U.S. citizen (i.e., reporting and withholding on forms 941, W-2, 1099, etc., following the normal withholding rules which apply with respect to those forms). A withholding agent should never issue form 1042-S to a U.S. citizen.

Residency under tax treaties is determined primarily by one's "residency" and not by one's citizenship or nationality. In addition, the domestic tax laws of most countries determine residency for tax purposes by criteria other than by citizenship or nationality. For example, the U.S. tax treaties with both China and Sweden determine residency first and foremost by the domestic law of each country. If dual residency results from the application of the domestic law of both countries, then the tiebreaker rules of each treaty come into play.

The tax laws of China require that a resident of China must have a "place of abode" in China to be considered a resident. The domestic law of Sweden states that anyone who resides in Sweden longer than 6 months shall be considered a resident of Sweden for tax purposes. Generally, you will rely on the foreign national to provide you their tax residency. However, when you exam their documentation, you may note issues where they may be a national of one country, but their passport was issued by another country.

IRS Publication 901, *U.S. Income Tax Treaties*, provides an overview of the income tax treaties in force as of the publication date. This publication should not be relied upon to determine if an individual qualifies

for the benefits of a tax treaty. The exemptions from or reduced rates of U.S. tax vary under each treaty. Therefore, you must check the provisions of the tax treaty that applies. The Office of the State Controller recommends using your International Tax Navigator and Treaty Navigator to determine the allowability and restrictions of each tax treaty country and articles. Determining which

After a new tax treaty enters into force, the Treasury Department prepares a "technical explanation" of the text of the tax treaty provisions. The technical explanations are useful for interpreting the tax treaties. The information in IRS Publication 901 is not all-inclusive and tax treaties are regularly updated. Therefore, you should not rely solely on this publication, but should ensure that you have access to current and complete information about tax treaties if you deal with nonresident alien employees on an on-going basis. The Internal Revenue Service has tax treaty information on their web site at <http://www.irs.gov/businesses/international>.

When reviewing an income tax treaty article, it is important to pay close attention to the qualifications for exemption specified in the text of the article. For example, the article may limit the exemption to payments made by a certain type of payor (i.e., a foreign resident). To determine an individual's eligibility for a tax treaty an analysis must be made using the following criteria:

- What is the residency status of the individual as defined by their home country and by the U.S.?
- Does this status qualify for a potential exemption from tax?
- What is the primary purpose of the individual's presence in the U.S.? Is there an article in the tax treaty that could exempt this type of activity?
- What is the type of payment (scholarship, fellowships, independent personal service, and dependent personal service)? Is there an article in the tax treaty that could exempt this type of payment?
- How long will the individual be in the U.S.? This question is extremely important when dealing with tax treaties with a retroactive clause and prospective loss clause countries. These treaties will take away all benefits if an individual remains in the U.S. beyond the specified time period.
- Who is the payor?

The tolling of the time limitations in tax treaties varies between tax treaties. Article 20 of the U.S. -United Kingdom Tax Treaty limits the visit to the U.S. to two years. If the individual stays longer than two years, the benefit of the treaty is lost retroactively. In this situation, if the state entity has reason to believe that the individual will be staying longer than two years, they should not grant the tax treaty exemption. The treaty with Canada allows a tax exemption on up to \$10,000 of remuneration paid in the calendar year. However, if the individual earns more than \$10,000, the entire benefit of the tax treaty is lost retroactively.

APPENDIX X

Countries with Tax Treaties Containing Applicable Articles

Compensation for Personal Services Performed in United States Exempt from U.S. Income Tax Under Income Tax Treaties

- This table lists the different kinds of personal service income that may be fully or partly exempt from U.S. income tax. The income code numbers shown in this table are the same as the income codes on [Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding](#).
- You must meet all of the treaty requirements before the item of income can be exempt from U.S. income tax.

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Australia	17	Independent personal services ⁷	183 days	Any contractor	No limit	14
	18	Dependent personal services ^{17, 47, 57}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$10,000 p.a. ²⁵	17
	20	Studying and training:				
		Remittances or allowances ¹¹	No limit	Any foreign resident	No limit	20
Austria	17	Independent personal services ⁷	No limit	Any contractor	No limit	14
	18	Dependent personal services ^{17, 58}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ²⁵	17
	20	Studying and training:				
		Remittances or allowances ¹¹	3 years ⁴⁵	Any foreign resident	No limit	20
Bangladesh	16	Scholarship or fellowship grant ⁴	2 years ⁴⁵	Any U.S. or foreign resident ⁵	No limit	21(2)
	17	Independent personal services ⁷	183 days	Any contractor	No limit	15
	18	Dependent personal services ^{17,57}	183 days	Any foreign resident	No limit	16
	42	Public entertainment	No limit	Any contractor	\$10,000 p.a. ³⁰	18
	19	Teaching or research ⁴	2 years	Any U.S. or foreign resident	No limit	21(1)
	20	Studying and training: ⁴				
		Remittances or allowances	2 years ⁴⁵	Any foreign resident	No limit	21(2)
		Compensation during study or training	2 years ⁴⁵	Any U.S. or foreign resident	\$8,000 p.a.	21(2)

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Barbados	17	Independent personal services ^{7, 8, 47}	89 days	Any foreign contractor	No limit	14
			89 days	Any U.S. contractor	\$5,000 p.a.	14
	18	Dependent personal services ^{8, 17, 58}	183 days	Any foreign resident	\$5,000 p.a.	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$250 per day or \$4,000 p.a. ^{6, 50}	17
	20	Studying and training: ²³				
		Remittances or allowances ¹¹	No limit	Any foreign resident	No limit	20
Belgium	17	Independent personal services ^{53, 12}				7
	18	Dependent personal services ^{12, 17, 57}	183 days	Any foreign resident	No limit	14
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ²⁵	16
	19	Teaching ⁴	2 years	Any U.S. educational or research institution	No limit	19(2)
	20	Studying and training: ¹¹				
		Remittances or allowances	2 years ⁴⁵	Any foreign resident	No limit	19(1)(a)
		Compensation during study or training	2 years ⁴⁵	Any U.S. or foreign resident	\$9,000 p.a.	19(1)(b)
Bulgaria	17	Independent personal services ⁵³				7
	18	Dependent personal services ^{8, 17, 57}	183 days	Any foreign resident	No limit	14
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$15,000 p.a. ²⁵	16
	19	Teaching ⁴	2 years	Any U.S. educational or research institution	No limit	19(2)
	20	Studying and training: ¹¹				
		Remittances or allowances	2 years ⁴⁵	Any foreign resident	No limit	19(1)(a)
		Compensation during study or training	2 years ⁴⁵	Any U.S. or foreign resident	\$9,000 p.a.	19(1)(b)

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Canada	17	Independent personal services ⁵³				VII
	18	Dependent personal services ⁵⁷	No limit	Any U.S. or foreign resident	\$10,000	XV
			183 days	Any foreign resident ¹⁷	No limit ¹³	XV
	42	Public entertainment ⁵⁴	No limit	Any U.S. or foreign resident	\$15,000 p.a. ²⁵	XVI
	20	Studying and training:				
		Remittances or allowances ¹¹	No limit ⁵²	Any foreign resident	No limit	XX
China, People's Rep. of	16	Scholarship or fellowship grant ¹⁵	No specific limit	Any U.S. or foreign resident ⁵	No limit	20(b)
	17	Independent personal services ^{7, 8}	183 days	Any contractor	No limit	13
	18	Dependent personal services ^{8, 17, 58}	183 days	Any foreign resident	No limit	14
	42	Public entertainment ²⁹				16
	19	Teaching ⁴	3 years	U.S. educational or research institute	No limit	19
	20	Studying and training:				
		Remittances or allowances	No specific limit	Any foreign resident	No limit	20(a)
		Compensation during training or while gaining experience	No specific limit	Any U.S. or foreign resident	\$5,000 p.a.	20(c)
Commonwealth of Independent States ⁶¹	16	Scholarship or fellowship grant	5 years	Any U.S. or foreign resident	Limited ¹⁹	VI(1)
	17	Independent personal services	183 days	Any U.S. or foreign contractor	No limit	VI(2)
	18	Dependent personal services ⁵⁷	183 days	Any U.S. or foreign resident	No limit	VI(2)
	19	Teaching ^{4, 20}	2 years	Any U.S. educational or scientific institution	No limit	VI(1)
	20	Studying and training:				
		Remittances or allowances	5 years	Any U.S. or foreign resident	Limited	VI(1)
		Compensation while gaining experience	1 year	C.I.S. resident	No limit ²¹	VI(1)
		Compensation under U.S. Government program	1 year	Any U.S. or foreign resident	No limit	VI(1)

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Cyprus	16	Scholarship or fellowship grant ¹⁵	Generally, 5 years	Any U.S. or foreign resident ⁵	No limit	21(1)
	17	Independent personal services ^{7, 12}	182 days	Any contractor	No limit	17
	18	Dependent personal services ^{17, 58}	182 days	Any foreign resident	No limit	18
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$500 per day or \$5,000 p.a. ⁶	19(1)
	20	Studying and training:				
		Remittances or allowances	Generally, 5 years	Any foreign resident	No limit	21(1)
		Compensation during training	Generally, 5 years	Any U.S. or foreign resident	\$2,000 p.a.	21(1)
		Compensation while gaining experience ²	1 year	Cyprus resident	\$7,500	21(2)
		Compensation under U.S. Government program	1 year	U.S. Government or its contractor	\$10,000	21(3)
Czech Republic	16	Scholarship or fellowship grant ^{4, 15}	5 years	Any U.S. or foreign resident ⁵	No limit	21(1)
	17	Independent personal services ⁷	183 days	Any contractor	No limit	14
	18	Dependent personal services ^{8, 17, 57}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ³⁰	18
	19	Teaching ^{4, 35}	2 years	Any U.S. educational or research institution	No limit	21(5)
	20	Studying and training: ⁴				
		Remittances and allowances	5 years	Any foreign resident	No limit	21(1)
		Compensation during training	5 years	Any U.S. or foreign resident	\$5,000 p.a.	21(1)
		Compensation while gaining experience ²	12 consec. mos.	Czech resident	\$8,000	21(2)
		Compensation under U.S. Government program	1 year	U.S. Government	\$10,000	21(3)
Denmark	17	Independent personal services ⁷	No limit	Any contractor	No limit	14
	18	Dependent personal services ^{8, 17, 58}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ²⁵	17
	20	Studying and training: ⁴				
		Remittances or allowances ¹¹	3 years ⁴⁵	Any foreign resident	No limit	20

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Egypt	16	Scholarship or fellowship grant ¹⁵	Generally, 5 years	Any U.S. or foreign resident ⁵	No limit	23(1)
	17	Independent personal services	89 days	Any contractor	No limit	15
	18	Dependent personal services ^{16, 17, 58}	89 days	Egyptian resident	No limit	16
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$400 per day ⁴⁶	17
	19	Teaching ^{4, 13}	2 years	U.S. educational institution	No limit	22
	20	Studying and training:				
		Remittances or allowances	Generally, 5 years	Any foreign resident	No limit	23(1)
		Compensation during training	Generally, 5 years	U.S. or any foreign resident	\$3,000 p.a.	23(1)
		Compensation while gaining experience ²	12 consec. mos.	Egyptian resident	\$7,500	23(2)
		Compensation under U.S. Government program	1 year	U.S. Government or its contractor	\$10,000	23(3)
Estonia	16	Scholarship or fellowship grants ⁴	5 years	Any U.S. or foreign resident ⁵	No limit	20(1)
		Independent personal services ⁷	183 days	Any contractor	No limit	14
	18	Dependent personal services ^{8, 17, 58}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ³⁰	17
	20	Studying and training: ⁴				
		Remittances or allowances	5 years	Any foreign resident	No limit	20(1)
		Compensation during training	12 consec. mos.	Estonian resident	\$8,000	20(2)
			5 years	Other foreign or U.S. resident	\$5,000 p.a.	20(1)
		Compensation while gaining experience ²	12 consec. mos.	Estonian resident	\$8,000	20(2)
	Compensation under U.S. Government program	1 year	U.S. Government or its contractor	\$10,000	20(3)	
Finland	17	Independent personal services ⁷	No limit	Any contractor	No limit	14
	18	Dependent personal services ^{17, 57}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ²⁵	17
	20	Studying and training:				
		Remittances or allowances ¹¹	No limit	Any foreign resident	No limit	20

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
France	16	Scholarship or fellowship grant ¹⁵	5 years ⁴³	Any U.S. or foreign resident ⁵	No limit	21(1)
	17	Independent personal services ^{7, 12}	No limit	Any contractor	No limit	14
	18	Dependent personal services ^{8, 17, 58}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$10,000 p.a. ³⁰	17
	19	Teaching ^{4, 44}	2 years ⁴³	U.S. educational or research institution	No limit	20
	20	Studying and training: ⁴				
		Remittances or allowances	5 years ⁴³	Any foreign resident	No limit	21(1)
		Compensation during study or training	12 consec. mos.	French resident	\$8,000	21(2)
			5 years ⁴³	Other foreign or U.S. resident	\$5,000 p.a.	21(1)
		Compensation while gaining experience ²	12 consec. mos.	French resident	\$8,000	21(2)
Germany	16	Scholarship or fellowship grant	No limit	Any U.S. or foreign resident ⁵	No limit	20(3)
	17	Independent personal services ^{53, 12}				7
	18	Dependent personal services ^{12, 17, 57}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ³⁰	17
	19	Teaching ^{4, 55}	2 years	U.S. educational or research institution	No limit	20(1)
	20	Studying and training: ¹¹				
		Remittances or allowances	No limit	Any foreign resident	No limit	20(2)
		Compensation during study or training	4 years	Any U.S. or foreign resident	\$9,000 p.a.	20(4)
		Compensation while gaining experience ²	1 year	Any foreign resident	\$10,000 ²⁸	20(5)

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Greece	17	Independent personal services	183 days	Greek resident contractor	No limit	X
			183 days	Other foreign or U.S. resident contractor	\$10,000 p.a.	X
	18	Dependent personal services	183 days	Greek resident	No limit	X
			183 days	Other foreign or U.S resident	\$10,000 p.a.	X
	19	Teaching	3 years	U.S. educational institution	No limit	XII
	20	Studying and training:				
		Remittances or allowances	No limit	Any foreign resident	No limit	XIII
Hungary	17	Independent personal services ⁷	183 days	Any contractor	No limit	13
	18	Dependent personal services ^{17, 57}	183 days	Any foreign resident	No limit	14
	19	Teaching ⁴	2 years	U.S. educational institution	No limit	17
	20	Studying and training: ²³				
		Remittances or allowances ¹¹	No limit	Any foreign resident	No limit	18(1)
Iceland	16	Scholarship or fellowship grant	5 years	Any U.S. or foreign resident ⁵	No limit	19(1)
	17	Independent personal services ⁵³				7
	18	Dependent personal services ^{8, 17, 58}	183 days	Any foreign resident	No limit	14
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ²⁵	16
	20	Studying and training:				
		Remittances or allowances	5 years	Any foreign resident	No limit	19(1)
		Compensation during study or training	5 years	Any U.S. or foreign resident	\$9,000 p.a.	19(1)
		Compensation while gaining experience	12 consec. mo.	Any U.S. or foreign resident ²	\$9,000	19(2)
	Compensation under U.S. Government program	1 year	U.S. Government or its contractor	\$9,000	19(3)	

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
India	17	Independent personal services ^{7, 8}	89 days	Any contractor	No limit	15
	18	Dependent personal services ^{8, 17, 57}	183 days	Any foreign resident	No limit	16
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$1,500 p.a. ^{26, 50}	18
	19	Teaching ⁴	2 years	U.S. educational institution	No limit	22
	20	Studying and training:				
		Remittances or allowances	Reasonable period	Any foreign resident ²⁷	No limit	21(1)
Indonesia	16	Scholarship and fellowship grant ¹⁵	5 years	Any U.S. or foreign resident ⁵	No limit	19(1)
	17	Independent personal services ⁷	119 days	Any contractor	No limit	15
	18	Dependent personal services ^{17, 57}	119 days	Any foreign resident	No limit	16
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$2,000 p.a. ^{25, 50}	17
	19	Teaching ^{4, 44}	2 years	U.S. educational institution	No limit	20
	20	Studying and training:				
		Remittances or allowances	5 years	Any foreign resident	No limit	19(1)
		Compensation during training	5 years	Any U.S. or foreign resident	\$2,000 p.a.	19(1)
		Compensation while gaining experience	12 consec. mo.	Any U.S. or foreign resident	\$7,500	19(2)
Ireland	17	Independent personal services ^{7, 12}	No limit	Any contractor	No limit	14
	18	Dependent personal services ^{17, 47, 58}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ²⁵	17
	20	Studying and training:				
		Remittances or allowances ¹¹	1 year ⁴⁵	Any foreign resident	No limit	20

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Israel	16	Scholarship and fellowship grant	5 years	Any U.S. or foreign resident ⁵	No limit	24(1)
	17	Independent personal services	182 days	Any contractor	No limit	16
	18	Dependent personal services ^{16, 17, 57}	182 days	Israeli resident	No limit	17
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$400 per day ³⁷	18
	19	Teaching ^{4, 39}	2 years	U.S. educational institution	No limit	23
	20	Studying and training:				
		Remittances or allowances	5 years	Any foreign resident	No limit	24(1)
		Compensation during study or training	5 years	Any U.S. or foreign resident	\$3,000 p.a.	24(1)
		Compensation while gaining experience ²	12 consec. mo.	Israeli resident	\$7,500	24(2)
		Compensation under U.S. Government program	1 year	U.S. Government or its contractor	\$10,000	24(3)
Italy	17	Independent personal services ⁷	No limit	Any contractor	No limit	14(1)
	18	Dependent personal services ^{8, 17, 57}	183 days	Any foreign resident	No limit	15(2)
	42	Public entertainment	90 days	Any U.S. or foreign resident	\$20,000 p.a. ²⁵	17
	19	Teaching or research ⁴	2 years	Any U.S. or foreign resident	No limit	20
	20	Studying and training:				
		Remittances or allowances	No limit	Any foreign resident	No limit	21
Jamaica	17	Independent personal services ^{7, 12}	89 days	Any foreign contractor	No limit	14
			89 days	Any U.S. contractor	\$5,000 p.a.	14
	18	Dependent personal services ^{17, 57}	183 days	Any foreign resident	\$5,000 p.a.	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$400 per day or \$5,000 p.a. ⁶	18
	19	Teaching ^{4, 44}	2 years	U.S. educational institution	No limit	22
	20	Studying and training: ²³				
		Remittances or allowances ¹¹	No limit	Any foreign resident	No limit	21(1)
		Compensation during study	12 consec. mo.	Jamaican resident	\$7,500 p.a.	21(2)
	Compensation while gaining experience ²	12 consec. mo.	Jamaican resident	\$7,500 p.a.	21(2)	

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Japan	17	Independent personal services ^{8, 53}				7
	18	Dependent personal services ^{8, 17, 57}	183 days	Any foreign resident	No limit	14
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$10,000 p.a. ²⁵	16
	19	Teaching or research ⁴	2 years	Any U.S. educational institution	No limit	20
	20	Studying and training:				
		Remittances or allowances	1 year ⁴⁵	Any foreign resident	No limit	19
Kazakhstan	16	Scholarship or fellowship grant ^{4, 15, 41}	5 years ³¹	Any U.S. or foreign resident ⁵	No limit	19
	17	Independent personal services ^{7, 8,}	183 days	Any contractor	No limit	14
	18	Dependent personal services ^{17, 47, 58}	183 days	Any foreign resident	No limit	15
	20	Studying and training: ⁴				
		Remittances or allowances	5 years ³¹	Any foreign resident	No limit	19
Korea South	16	Scholarship or fellowship grant ¹⁵	5 years	Any U.S. or foreign resident ⁵	No limit	21(1)
	17	Independent personal services ^{7,}	182 days	Any contractor	\$3,000 p.a.	18
	18	Dependent personal services ^{17, 57}	182 days	Korean resident ¹⁸	\$3,000 p.a.	19
	19	Teaching ⁴	2 years	U.S. educational institution	No limit	20
	20	Studying and training:				
		Remittances or allowances	5 years	Any foreign resident	No limit	21(1)
		Compensation during training	5 years	Any foreign or U.S. resident	\$2,000 p.a.	21(1)
		Compensation while gaining experience ²	1 year	Korean resident	\$5,000	21(2)
		Compensation under U.S. Government program	1 year	U.S. Government or its contractor	\$10,000	21(3)

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Latvia	16	Scholarship or fellowship grants ⁴	5 years	Any U.S. or foreign resident ⁵	No limit	20(1)
	17	Independent personal services ^{7, 8}	183 days	Any contractor	No limit	14
	18	Dependent personal services ^{8, 17, 58}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ³⁰	17
	20	Studying and training: ⁴				
		Remittances or allowances	5 years	Any foreign resident	No limit	20(1)
		Compensation during training	12 consec. mos.	Latvian resident	\$8,000	20(2)
			5 years	Other foreign or U.S. resident	\$5,000 p.a.	20(1)
		Compensation while gaining experience ²	12 consec. mos.	Latvian resident	\$8,000	20(2)
		Compensation under U.S. Government program	1 year	U.S. Government or its contractor	\$10,000	20(3)
Lithuania	16	Scholarship or fellowship grants ⁴	5 years	Any U.S. or foreign resident ⁵	No limit	20(1)
	17	Independent personal services ⁷	183 days	Any contractor	No limit	14
	18	Dependent personal services ^{8, 17, 57}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ³⁰	17
	20	Studying and training: ⁴				
		Remittances or allowances	5 years	Any foreign resident	No limit	20(1)
		Compensation during training	12 consec. mos.	Lithuanian resident	\$8,000	20(2)
			5 years	Other foreign or U.S. resident	\$5,000 p.a.	20(1)
		Compensation while gaining experience ²	12 consec. mos.	Lithuanian resident	\$8,000	20(2)
		Compensation under U.S. Gov't program	1 year	U.S. Gov't or its contractor	\$10,000	20(3)
Luxembourg	17	Independent personal services ⁷	No limit	Any contractor	No limit	15
	18	Dependent personal services ^{12, 17, 57}	183 days	Any foreign resident	No limit	16
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$10,000 p.a. ²⁵	18
	19	Teaching or research ⁹	2 years	Any U.S. or foreign resident	No limit	21(2)
	20	Studying and training:				
		Remittances or allowances ¹¹	2 years ⁴⁵	Any U.S. or foreign resident	No limit	21(1)

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Malta	17	Independent personal services ⁵³				7
	18	Dependent personal services ^{12, 17, 57}	183 days	Any foreign resident	No limit	14
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ²⁵	16
	20	Studying and training:				
		Remittances or allowances	1 year ⁴⁵	Any foreign resident	No limit	20(1)
		Compensation during study or training	No limit	Any U.S. or foreign resident	\$9,000 p.a.	20(2)
		Compensation while gaining experience	No limit	Any U.S. or foreign resident	\$9,000 p.a.	20
Mexico	17	Independent personal services ⁷⁸	182 days	Any contractor	No limit	14
	18	Dependent personal services ^{17, 47, 57}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$3,000 p.a. ³⁰	18
	20	Studying and training:				
		Remittances or allowances	No limit	Any foreign resident	No limit	21
Morocco	16	Scholarship or fellowship grant ¹⁵	5 years	Any U.S. or foreign resident ⁵	No limit	18
	17	Independent personal services ⁷	182 days	Any contractor ¹³	\$5,000	14
	18	Dependent personal services ^{17, 57}	182 days	Moroccan resident ^{13, 18}	No limit	15
	20	Studying and training: ⁵				
		Remittances or allowances	5 years	Any foreign resident	No limit	18
		Compensation during training	5 years	U.S. or any foreign resident	\$2,000 p.a.	18

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Netherlands	16	Scholarship or fellowship grant ^{15, 33}	3 years	Any U.S. or foreign resident ⁵	No limit	22(2)
	17	Independent personal services ⁷	No limit	Any contractor	No limit	15
	18	Dependent personal services ^{17, 47, 58}	183 days	Any foreign resident	No limit	16
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$10,000 p.a. ²⁵	18
	19	Teaching ^{4, 34}	2 years	U.S. educational institution	No limit	21(1)
	20	Studying and training: ³³				
		Remittances or allowances	Reasonable period	Any foreign resident	No limit	22(1)
		Compensation while gaining experience	Reasonable period	Any U.S. or foreign resident	\$2,000 p.a.	22(1)
		Compensation while recipient of scholarship or fellowship grant	Reasonable period	Any U.S. or foreign resident	\$2,000 p.a. ³⁶	22(2)
New Zealand	17	Independent personal services ⁵³	183 days	Any U.S. or foreign resident	No limit	14
	18	Dependent personal services ^{17, 58}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$10,000 ²⁵	17
	20	Studying and training:				
		Remittances or allowances ¹¹	No limit	Any foreign resident	No limit	20
Norway	16	Scholarship or fellowship grant ¹⁵	5 years	Any U.S. or foreign resident ⁵	No limit	16(1)
	17	Independent personal services ⁷	182 days	Any contractor	No limit	13
	42	Public entertainment	90 days	Any contractor	\$10,000 p.a. ²⁸	13
	18	Dependent personal services ^{17, 56, 59}	182 days	Norwegian resident ¹⁸	No limit	14
	19	Teaching ⁴	2 years	U.S. educational institution	No limit	15
	20	Studying and training:				
		Remittances or allowances	5 years	Any foreign resident	No limit	16(1)
		Compensation during training	5 years	U.S. or any foreign resident	\$2,000 p.a.	16(1)
		Compensation while gaining experience ²	12 consec. mo.	Norwegian resident	\$5,000	16(2)
	Compensation under U.S. Government program	1 year	U.S. Government or its contractor	\$10,000	16(3)	

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Pakistan	16	Scholarship or fellowship grant ¹⁵	No limit	Pakistani nonprofit organization	No limit	XIII(1)
	17	Independent personal services ¹⁶	183 days	Pakistani resident contractor	No limit	XI
	18	Dependent personal services ¹⁶	183 days	Pakistani resident	No limit	XI
	19	Teaching	2 years	U.S. educational institution	No limit	XII
	20	Studying and training:				
		Remittances or allowances	No limit	Any foreign resident	No limit	XIII(1)
		Compensation during training	No limit	U.S. or any foreign resident	\$5,000 p.a.	XIII(1)
		Compensation while gaining experience ²	1 year	Pakistani resident	\$6,000	XIII(2)
		Compensation while under U.S. Government program	No limit	U.S. Government, its contractor, or any foreign resident employer	\$10,000	XIII(3)
Philippines	16	Scholarship or fellowship grant ¹⁵	5 years	Any U.S. or foreign resident ⁵	No limit	22(1)
	17	Independent personal services ⁷	89 days	Any foreign contractor	No limit	15
			89 days	Any U.S. resident	\$10,000 p.a.	15
	18	Dependent personal services ^{17, 57}	89 days	Any Philippines resident ¹⁸	No limit	16
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$100 per day or \$3,000 p.a. ^{28, 50}	17
	19	Teaching ^{4, 38}	2 years	U.S. educational institution	No limit	21
	20	Studying and training:				
		Remittances or allowances	5 years	Any foreign resident	No limit	22(1)
		Compensation during study	5 years	Any U.S. or foreign resident	\$3,000 p.a.	22(1)
		Compensation while gaining experience ²	12 consec. mo.	Philippines resident	\$7,500 p.a.	22(2)
		Compensation while under U.S. Government program	1 year	U.S. Government or its contractor	\$10,000 p.a.	22(3)

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Poland	16	Scholarship or fellowship grant ¹⁵	5 years	Any U.S. or foreign resident ⁵	No limit	18(1)
	17	Independent personal services	182 days	Any contractor	No limit	15
	18	Dependent personal services ^{17, 57}	182 days	Any foreign resident	No limit	16
	19	Teaching ^{4, 41}	2 years	U.S. educational institution	No limit	17
	20	Studying and training:				
		Remittances or allowances	5 years	Any foreign resident	No limit	18(1)
		Compensation during training	5 years	U.S. or any foreign resident	\$2,000 p.a.	18(1)
		Compensation while gaining experience ²	1 year	Polish resident	\$5,000	18(2)
		Compensation while under U.S. Government program	1 year	U.S. Government or its contractor	\$10,000	18(3)
Portugal	16	Scholarship or fellowship grant ¹⁵	5 years	Any U.S. or foreign resident ⁵	No limit	23(1)
	17	Independent personal services ⁷	182 days	Any contractor	No limit	15
	18	Dependent personal services ^{8, 17, 58}	183 days	Any foreign resident	No limit	16
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$10,000 p.a. ³⁰	19
	19	Teaching ^{4, 42}	2 years	U.S. educational institution	No limit	22
	20	Studying and training: ⁴				
		Remittances or allowances	5 years	Any foreign resident	No limit	23(1)
		Compensation during study or training	12 consec. mos.	Portuguese resident	\$8,000	23(2)
			5 years	Other foreign or U.S. resident	\$5,000 p.a.	23(1)
		Compensation while gaining experience ²	12 consec. mos.	Portuguese resident	\$8,000	23(2)

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Romania	16	Scholarship or fellowship grant ¹⁵	5 years	Any U.S. or foreign resident ⁵	No limit	20(1)
	17	Independent personal services	182 days	Any contractor	No limit	14
	42	Public entertainment ⁶⁰	90 days	Any contractor	\$3,000 p.a. ²⁸	14
	18	Dependent personal services ^{17, 57}	182 days	Romanian resident ¹⁸	No limit	15
	42	Public entertainment ⁶⁰	89 days	Any U.S. or foreign resident	\$2,999.99 p.a. ²⁸	15
	19	Teaching ⁴	2 years	U.S. educational institution	No limit	19
	20	Studying and training:				
		Remittances or allowances	5 years	Any foreign resident	No limit	20(1)
		Compensation during training	5 years	U.S. or any foreign resident	\$2,000 p.a.	20(1)
		Compensation while gaining experience ²	1 year	Romanian resident	\$5,000	20(2)
	Compensation while under U.S. Government program	1 year	U.S. Government or its contractor	\$10,000	20(3)	
Russia	16	Scholarship or fellowship grant ^{4, 15, 41}	5 years ³¹	Any U.S. or foreign resident ⁵	No limit	18
	17	Independent personal services ⁷	183 days	Any contractor	No limit	13
	18	Dependent personal services ^{8, 17, 32, 58}	183 days	Any foreign resident	No limit	14
	20	Studying and training: ⁴				
		Remittances or allowances	5 years ³¹	Any foreign resident	No limit	18

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Slovak Republic	16	Scholarship or fellowship grant ^{4, 15}	5 years	Any U.S. or foreign resident ⁵	No limit	21(1)
	17	Independent personal services ⁷	183 days	Any contractor	No limit	14
	18	Dependent personal services ^{12, 17, 57}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ³⁰	18
	19	Teaching ^{4, 35}	2 years	Any U.S. educational or research institution	No limit	21(5)
	20	Studying and training: ⁴				
		Remittances or allowances	5 years	Any foreign resident	No limit	21(1)
		Compensation during training	5 years	Any U.S. or any foreign resident	\$5,000 p.a.	21(1)
		Compensation while gaining experience ²	12 consec. mos.	Slovak resident	\$8,000	21(2)
		Compensation while under U.S. Government program	1 year	U.S. Government	\$10,000	21(3)
Slovenia	16	Scholarship or fellowship grant ⁴	5 years ¹⁰	Any U.S. or foreign resident ⁵	No limit	20(1)
	17	Independent personal services ⁷	No limit	Any contractor	No limit	14
	18	Dependent personal services ^{12, 17, 58}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$15,000 p.a. ³⁰	17
	19	Teaching or research ⁴	2 years ⁴⁰	Any U.S. or foreign resident	No limit	20(3)
	20	Studying and training: ⁴				
		Remittances or allowances	5 years ¹⁰	Any foreign resident	No limit	20(1)
		Compensation during training	12 mos.	Slovenian resident	\$8,000	20(2)
			5 years ¹⁰	Other foreign or U.S. resident	\$5,000 p.a.	20(1)
		Compensation while gaining experience ²	12 mos.	Slovenian resident	\$8,000	20(2)

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
South Africa	17	Independent personal services ⁷	183 days	Any contractor	No limit	14
	18	Dependent personal services ^{12, 17, 58}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$7,500 p.a. ³⁰	17
	20	Studying and training:				
		Remittances or allowances ¹¹	1 year ⁴⁵	Any foreign resident	No limit	20
Spain	16	Scholarship or fellowship grant ^{4, 15}	5 years	Any U.S. or foreign resident ⁵	No limit	22(1)
	17	Independent personal services ⁷	No limit	Any contractor	No limit	15
	18	Dependent personal services ^{12, 17, 57}	183 days	Any foreign resident	No limit	16
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$10,000 p.a. ³⁰	19
	20	Studying and training: ⁴				
		Remittances or allowances	5 years	Any foreign resident	No limit	22(1)
		Compensation during training	5 years	Any U.S. or foreign resident	\$5,000 p.a.	22(1)
	Compensation while gaining experience ²	12 consec. mo.	Spanish resident	\$8,000	22(2)	
Sri Lanka	17	Independent personal services ^{7, 12}	183 days	Any contractor	No limit	15
	18	Dependent personal services ^{12, 17, 57}	183 days	Any foreign resident	No limit	16
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$6,000 p.a. ³⁰	18
	20	Studying and training:				
		Remittances or allowances ¹¹	No limit	Any foreign resident	No limit	21(1)
		Compensation while gaining experience ²	1 year	Sri Lankan resident ¹⁹	\$6,000	21(2)
Sweden	17	Independent personal services ⁷	No limit	Any contractor	No limit	14
	18	Dependent personal services ^{12, 17, 57}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$6,000 ²⁵	18
	20	Studying and training:				
		Remittances or allowances ¹¹	No limit	Any foreign resident	No limit	21

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Switzerland	17	Independent personal services ⁷	No limit	Any contractor	No limit	14
	18	Dependent personal services ^{8, 17, 57}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$10,000 p.a. ²⁵	17
	20	Studying and training:				
		Remittances or allowances ¹¹	No limit	Any foreign resident	No limit	20
Thailand	16	Scholarship or fellowship grant	5 years	Any U.S. or foreign resident ⁵	No limit	22(1)
	17	Independent personal services ⁷	89 days	Any U.S. resident or permanent establishment	\$10,000 p.a.	15
			89 days	Any foreign contractor	No limit ⁴⁹	15
	18	Dependent personal services ^{12, 17, 47, 57}	183 days	Any foreign resident	No limit	16
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$100 per day or \$3,000 p.a. ⁴⁸	19
	19	Teaching or research ^{4, 38}	2 years	Any U.S. or foreign resident	No limit	23
	20	Studying and training:				
		Remittances or allowances	5 years	Any foreign resident	No limit	22(1)
		Compensation during training	5 years.	Any U.S. or foreign resident	\$3,000 p.a.	22(1)
		Compensation while gaining experience	12 consec. mos.	Thai resident ²	\$7,500 p.a.	22(2)
		Compensation under U.S. Government program	1 year	U.S. Government	\$10,000	22(3)

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Trinidad and Tobago	16	Scholarship or fellowship grant ¹⁵	5 years	Any U.S. or foreign resident ⁵	No limit	19(1)
	17	Independent personal services ¹⁴	183 days	Any foreign resident contractor	No limit	17
			183 days	Any U.S. contractor	\$3,000 ⁶	17
	18	Dependent personal services ^{8, 14}	183 days	Any foreign resident	No limit	17
			183 days	Any U.S. resident	\$3,000 ⁶	17
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$100/day	17(4)
	19	Teaching ⁴	2 years	U.S. educational institution or U.S. Government	No limit	18
	20	Studying and training:				
		Remittances or allowances	5 years	Any foreign resident	No limit	19(1)
		Compensation during study or research	5 years.	U.S. or any foreign resident	\$2,000 p.a. ⁶	19(1)
		Compensation during professional training	5 years	U.S. or any foreign resident	\$5,000 p.a. ⁶	19(1)
		Compensation while gaining experience	1 year	Trinidad–Tobago resident ²	\$5,000 ⁶	19(2)
		Compensation under U.S. Government program	1 year	U.S. Government or its contractor	\$10,000 ⁶	19(3)
Tunisia	16	Scholarship and fellowship grant ^{11, 15}	5 years	Any U.S. or foreign resident ⁵	No limit	20
	17	Independent personal services ⁷	183 days	U.S. resident contractor	\$7,500 p.a.	14
	18	Dependent personal services ^{8, 17, 57}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$7,500 p.a. ²⁵	17
	20	Studying and training: ¹¹				
		Remittances or allowances	5 years	Any foreign resident	No limit	20
		Compensation during training	5 years	Any U.S. or foreign resident	\$4,000 p.a.	20

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Turkey	17	Independent personal services ⁷	183 days	Any contractor	No limit	14
	18	Dependent personal services ^{12, 17, 57}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$3,000 p.a. ⁴⁸	17
	19	Teaching or research	2 years	Any foreign resident	No limit	20(2)
	20	Studying and training:				
		Remittances or allowances ¹¹	No limit	Any foreign resident	No limit	20(1)
Ukraine	16	Scholarship or fellowship grant ⁴¹	5 years ³¹	Any U.S. or foreign resident ⁵	No limit	20
	17	Independent personal services ^{3, 7}	No limit	Any contractor	No limit	14
	18	Dependent personal services ^{3, 17, 47, 58}	183 days	Any foreign resident	No limit	15
	20	Studying and training:				
		Remittances or allowances ⁴	5 years ³¹	Any foreign resident	No limit	20
United Kingdom	17	Independent personal services ⁵³				7
	18	Dependent personal services ^{12, 17, 58}	183 days	Any foreign resident	No limit	14
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$20,000 p.a. ²⁵	16
	19	Teaching or research ⁴	2 years	Any U.S. educational institution	No limit	20A
	20	Studying and training:				
		Remittances or allowances ¹¹	1 year ⁴⁵	Any foreign resident	No limit	20

Country (1)	Code ¹ (2)	Purpose ²² (3)	Maximum Presence in U.S. (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
Venezuela	16	Scholarship or fellowship grants ⁴	5 years ¹⁰	Any U.S. or foreign resident ⁵	No limit	21(1)
	17	Independent personal services ^{7, 12}	No limit	Any contractor	No limit	14
	18	Dependent personal services ^{12, 17, 58}	183 days	Any foreign resident	No limit	15
	42	Public entertainment	No limit	Any U.S. or foreign resident	\$6,000 p.a. ³⁰	18
	19	Teaching ⁴	2 years ⁴⁰	Any U.S. or foreign resident	No limit	21(3)
	20	Studying and training: ⁴				
		Remittances or allowances	5 years ¹⁰	Any foreign resident	No limit	21(1)
		Compensation during training	12 mos.	Venezuelan resident	\$8,000	21(2)
			5 years ¹⁰	Other foreign or U.S. resident	\$5,000 p.a.	21(1)
		Compensation while gaining experience	12 mos.	Venezuelan resident ²	\$8,000	21(2)

Note: Some of the treaties with "No Limit" to the maximum presence in the U.S. do not extend treaty benefits to individuals who are residents of the U.S. Individuals who are in the U.S. on a non-J visa and who are paid an honorarium will be treated as U.S. residents once they are in the U.S. for at least 183 days. Therefore, even though the treaty provision may not impose a maximum presence limit, as a practical matter, once the person is in the U.S. for 183 days, he will be treated as a resident alien and will not be eligible for the tax treaty exemption.

IMPORTANT NOTICE:

Due to the constant review of existing treaties plus the addition of new treaties, you should refer to the Internal Revenue Service website and the most current IRS Publication 901, *U.S. Tax Treaties* to confirm treaty status is still valid.

Footnotes to Table 2. Compensation for Personal Services Performed in United States Exempt from U.S. Income Tax Under Income Tax Treaties

1	Refers to income code numbers under which the income is reported on Forms 1042-S. Personal services must be performed by a nonresident alien individual who is a resident of the specified treaty country.
2	Applies only if training or experience is received from a person other than alien's employer.
3	The exemption does not apply to income received for performing services in the United States as an entertainer or a sportsman. However, this income is exempt for U.S. income tax if the visit is (a) substantially supported by public funds of Ukraine, its political subdivisions, or local authorities, or (b) made under a specific arrangement agreed to by the governments of the treaty countries.
4	Does not apply to compensation for research work primarily for private benefit.
5	Grant must be from a nonprofit organization. In many cases, the exemption also applies to amounts from either the U.S. or foreign government. For Indonesia and the Netherlands, the exemption also applies if the amount is awarded under a technical assistance program entered into by the United States or the foreign government, or its political subdivisions or local authorities.
6	Reimbursed expenses are not taken into account in figuring any maximum compensation to which the exemption applies. For Japan and Trinidad and Tobago, only reimbursed travel expenses are disregarded in figuring the maximum compensation.
7	Exemption does not apply to the extent income is attributable to the recipient's fixed U.S. base. For residents of Korea and Norway, the fixed base must be maintained for more than 182 days (for Norway, 30 days in the case of the exploration or exploitation of the seabed and sub-soil and their natural resources); for residents of Morocco, the fixed base must be maintained for more than 89 days.
8	Does not apply to fees paid to a director of a U.S. corporation.
9	Does not apply to compensation for research work for other than the U.S. educational institution (or, for Italy, a medical facility that is primarily publicly funded) involved.
10	Applies to any additional period that a full-time student needs to complete the educational requirements as a candidate for a postgraduate or professional degree from a recognized educational institution.
11	Applies only to full-time student or trainee.
12	Fees paid to a resident of the treaty country for services performed in the United States as a director of a U.S. corporation are subject to U.S. tax.
13	Exemption does not apply if, during the immediately preceding period, such individual claimed the benefits of Article 23(1).
14	Does not apply to compensation paid to public entertainers that is more than \$100 a day.
15	Does not apply to payments from the National Institutes of Health under its Visiting Associate Program and Visiting Scientist Program.
16	Exemption applies only if the compensation is subject to tax in the country of residence.
17	The exemption does not apply if the employee's compensation is borne by a permanent establishment (or in some cases a fixed base) that the employer has in the United States.
18	The exemption also applies if the employer is a permanent establishment in the treaty country but is not a resident of the treaty country.
19	Applies also to a participant in a program sponsored by the U.S. Government or an international organization.
20	The exemption is also extended to journalists and correspondents who are temporarily in the U.S. for periods not longer than 2 years and who receive compensation from abroad.
21	Also exempt are amounts of up to \$10,000 received from U.S. sources to provide ordinary living expenses. For students, the amount will be less than \$10,000, determined on a case by case basis.

Footnotes to Table 2. Compensation for Personal Services Performed in United States Exempt from U.S. Income Tax Under Income Tax Treaties

22	Withholding may be required if the factors on which the treaty exemption is based may not be determinable until after the close of the tax year. Athletes and entertainers may be able to enter into a central withholding agreement with the IRS for reduced withholding provided certain requirements are met.
23	A student or trainee may choose to be treated as a U.S. resident for tax purposes. If the choice is made, it may not be changed without the consent of the U.S. competent authority.
24	Does not apply to amounts received in excess of reasonable fees payable to all directors of the company for attending meetings in the United States.
25	Exemption does not apply if gross receipts (including reimbursements) exceed this amount.
26	Exemption does not apply if net income exceeds this amount.
27	Exemption does not apply to payments borne by a permanent establishment in the United States or paid by a U.S. citizen or resident or the federal, state, or local government.
28	Exemption does not apply if compensation (or gross income for the Philippines and Romania) exceeds this amount.
29	The exemption applies only to income from activities performed under special cultural exchange programs agreed to by the U.S. and Chinese governments.
30	Exemption does not apply if gross receipts (or compensation for Portugal and Venezuela), including reimbursements, exceed this amount. Income is fully exempt if visit to the United States is substantially supported by public funds of the treaty country or its political subdivisions or local authorities.
31	The 5-year limit pertains only to training or research.
32	Compensation from employment directly connected with a place of business that is not a permanent establishment is exempt if the alien is present in the United States for a period not exceeding 12 consecutive months. Compensation for technical services directly connected with the application of a right or property giving rise to a royalty is exempt if the services are provided as part of a contract granting the use of the right or property.
33	Exemption does not apply if, during the immediately preceding period, the individual claimed the benefits of Article 21.
34	Exemption does not apply if, during the immediately preceding period, the individual claimed the benefits of Article 22.
35	Exemption does not apply if the individual either (a) claimed the benefit of Article 21(5) during a previous visit, or (b) during the immediately preceding period, claimed the benefit of Article 21(1), (2), or (3).
36	Exemption applies only to compensation for personal services performed in connection with, or incidental to, the individual's study, research, or training.
37	If the compensation exceeds \$400 per day, the entertainer may be taxed on the full amount. If the individual receives a fixed amount for more than one performance, the amount is prorated over the number of days the individual performs the services (including rehearsals).
38	Exemption does not apply if, during the immediately preceding period, the individual claimed the benefits of Article 22(1).
39	Exemption does not apply if, during the immediately preceding period, the individual claimed the benefits of Article 24(1).
40	The combined benefit for teaching cannot exceed 5 years.
41	Exemption does not apply if, during the immediately preceding period, the individual claimed the benefits of Article 18(1).
42	Exemption does not apply if the individual either (a) previously claimed the benefit of this Article, or (b) during the immediately preceding period, claimed the benefit of Article 23. The benefits under Articles 22 and 23 cannot be claimed at the same time.
43	The combined period of benefits under Articles 20 and 21(1) cannot exceed 5 years.

Footnotes to Table 2. Compensation for Personal Services Performed in United States Exempt from U.S. Income Tax Under Income Tax Treaties

44	Exemption does not apply if the individual previously claimed the benefit of this Article.
45	The time limit pertains only to an apprentice or business trainee.
46	Exemption does not apply if gross receipts exceed this amount.
47	Fees paid to a resident of the treaty country for services as a director of a U.S. corporation are subject to U.S. tax, unless the services are performed in the country of residence.
48	Exemption does not apply if gross receipts exceed this amount. Income is fully exempt if visit to the United States is substantially supported by public funds of the treaty country or its political subdivisions or local authorities.
49	A \$10,000 limit applies if the expense is borne by a permanent establishment or a fixed base in the United States. Exemption does not apply if the recipient maintains a permanent establishment in the U.S. with which the income is effectively connected.
50	This provision does not apply if these activities are substantially supported by a nonprofit organization or by public funds of the treaty country or its political subdivisions or local authorities. For Indonesia and the Philippines, the competent authority of the sending state must certify that the visit qualifies.
51	Exemption does not apply if gross receipts, including reimbursements, exceed this amount during the year. Income is fully exempt if visit is wholly or mainly supported by public funds of one or both of the treaty countries or their political subdivisions or local authorities.
52	Exemption applies to a business apprentice (trainee) only for a period not exceeding 1 year (2 years for Belgium and Bulgaria) from the date of arrival in the United States.
53	Treated as business profits under Article 7 (VII) of the treaty.
54	Employment with a team which participates in a league with regularly scheduled games in both countries is covered under the provisions for dependent personal services.
55	Exemption does not apply if during the immediately preceding period, the individual claimed the benefit of Article 20(2), (3), or (4).
56	Labor or personal services performed in connection with the exploration or exploitation of the seabed and sub-soil and their natural resources is fully exempt for a period of 60 days in the tax year.
57	Remuneration for employment exercised aboard a ship or aircraft operated in international traffic by a resident of a contracting State may be taxed in that State. Canada may tax the income from employment if the income is derived by a resident of Canada and the ship or aircraft is operated by a resident of Canada. If operated by a Luxembourg resident and Luxembourg fails to tax the income, such income shall be taxed in the State of which the employee is a resident. The income may be taxed in Tunisia only if the ship or aircraft is operated by an enterprise that is managed and controlled in Tunisia.
58	Remuneration derived by a resident of a contracting State in respect of an employment as a member of the regular compliment of a ship or aircraft operated in international traffic may only be taxed in that State.
59	Income from personal services performed by a resident of one contracting State as an employee aboard ships or aircraft operated by a resident of the other contracting State in international traffic may be taxed by that other contracting State if the employee is a member of the regular compliment of the ship or aircraft.
60	The test does not apply if the entertainer is a resident of the one contracting State and is present in the other Contracting State pursuant to a specific arrangement agreed to by the contracting States under a Cultural Relations Agreement dated December 15, 1972.
61	The U.S.-U.S.S.R. Income Tax Treaty, signed June 20, 1973, applies to the countries of Armenia, Azerbaijan, Belarus. Georgia, Kyrgystan, Moldova, Tajikistan, Turkmenistan, and Uzbekistan.

APPENDIX XI

Income Subject to the Federal Insurance Contribution Act (FICA) Taxes

In general, U.S. Social Security and Medicare taxes apply to payments of wages for services performed as an employee in the United States, regardless of the citizenship or residence of the employee or employer. In limited situations, these taxes apply to wages for services performed outside the United States. These taxes are required for wages of employment as defined by Section 3121 of the Internal Revenue Code. These taxes are not voluntary so contributions cannot be made if no taxes are due.

For individuals in an alien status, the Internal Revenue Code does exempt one group's wages from social security and Medicare taxes in Section 3121(b) (19):

The NRA FICA Exception- Service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F), (J), (M), or (Q) as the case may be;

Translation: Individuals who are on a F, J, M, or Q visa and in compliance with the terms of their visa are exempt from FICA taxes while they are in nonresident tax status. Nonresident status means they have not passed the substantial presence test. Important Note: The exemption is only permitted during the years, the F, J, M, or Q visa holder is in a nonresident tax status for the entire year. If they pass the substantial presence test during the year, their wages are subject to the FICA taxes from the beginning of the calendar year they changed. Please ensure the substantial presence test is calculated at the time employment begins and at the beginning of each tax year the individual remains employed.

Students- For individuals who are in student status, this nonresident period consists of either the first five (5) years as a student when the days do not count towards the substantial presence test or their countable days have not passed 183 days in the sixth year. J-1 Students who fail to meet the conditions for the NRA FICA Exception because they become RAs are still potentially eligible for the Student FICA Exception for on-campus employment:

The Student FICA Exception-Section 3121 (b) (10) of the Code provides an exception from FICA tax for students who are employed by a school, college, or university or a Section 509(a) (3) affiliate. The exception applies regardless of type of institution-private or public, tax-exempt or for-profit. The exception does not require that students be a U.S. citizen in order to qualify for the FICA tax exemption. Therefore, J-1 Students, whether their residency status is resident or nonresident, are potentially eligible for the Student FICA Exception under the same rules that apply to students who are citizens. To qualify for the Student FICA Exception, students must be enrolled and attending classes at least half-time at the institution. In order for their employment to qualify for the exception from FICA tax, it must be incident to and for the purpose of pursuing a course of study at the employer institution. Therefore, full-time employment **does not** qualify for the Student FICA Exception. Generally, student employment during school vacations when students may work full-time is not covered by the Student FICA Exception. The exception applies **only** to work performed for the institution at which the student is enrolled.

Nonstudents- For individuals on a J or Q visa, this nonresident period is either during the two years when the days do not count towards the substantial presence test out of seven years (current and six years prior) or their countable days have not exceeded the 183 days.

U.S. International Social Security Totalization Agreements

The federal government has entered into bilateral social security agreements with a number of different foreign countries. As of 2016, agreements are in effect with the following countries:

Countries with Social Security Agreements			
<i>Country</i>	<i>Entry into Force</i>	<i>Country</i>	<i>Entry into Force</i>
Italy	1-Nov-78	Luxembourg	1-Nov-93
Germany	1-Dec-79	Greece	1-Sep-94
Switzerland	1-Nov-80	South Korea	1-Apr-01
Belgium	1-Jul-84	Chile	1-Dec-01
Norway	1-Jul-84	Australia	1-Oct-02
Canada	1-Aug-84	Japan	1-Oct-05
United Kingdom	1-Jan-85	Denmark	1-Oct-08
Sweden	1-Jan-87	Czech Republic	1-Jan-09
Spain	1-Apr-88	Poland	1-Mar-09
France	1-Jul-88	Slovak Republic	1-May-14
Portugal	1-Aug-89	Hungary	1-Sep-16
Netherlands	1-Nov-90	Brazil	1-Oct-18
Austria	1-Nov-91	Uruguay	1-Nov-18
Finland	1-Nov-92	Slovenia	1-Feb-19
Ireland	1-Sep-93	Iceland	1-Mar-19

These bilateral agreements, which are sometimes called "Totalization" agreements, eliminate dual social security coverage, the situation that occurs when an employee from one country works in another country and is required to pay social security taxes--together with the employer--to both countries on the same earnings. A Totalization agreement assigns coverage to just one country and exempts the employer and employee from social security taxes in the other country. Please reference the Social Security Administration and criteria of each country to determine coverage.

Coverage by another country under a Totalization Agreement must be supported by a Certificate of Coverage that the Social Security agency of the other country has issued as evidence that the employee is covered by (and paying into) that country's Social Security system.

Reporting Social Security Tax Withholding

Social security and Medicare taxes as well as the income subject to social security and Medicare taxes are reported on the Form W-2, *Wage and Tax Statement*.

APPENDIX XII

End of Year Reporting for the Withholding Agent

The annual tax reporting statements for reportable alien payments are listed below.

Form W-2 Wage and Tax Statement

Wages, tips, and other compensation paid to resident and nonresident alien employees that are subject to income and/or FICA taxes are reported on Form W-2, Wage and Tax Statement. The payments are processed in the same manner as such payments made to U.S. citizens.

Form 1099 Miscellaneous Income

Payments for awards and prizes made to resident alien recipients are reported on Form 1099-MISC

Form 1099 Nonemployee Compensation

Payments for consulting fees, guest speaker fees, and honoraria made to resident alien independent contractors are reported on Form 1099-NEC

Form 1042-S Foreign Person's U.S. Source Income Subject to Withholding

IRS tax regulations require that certain payments be reported to the nonresident alien recipients after each calendar year on Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding. Form 1042-S is issued to nonresident aliens in the following categories:

- Employees using a tax treaty for withholding exemption
- Independent contractors
- Scholarship/fellowship recipients who receive nonqualified scholarship money

Form 1042 Annual Withholding Tax Return for U.S. Source Income of Foreign Persons

Form 1042 is used to report the federal government income and income tax withheld on payments made to nonresident aliens and resident aliens who used tax treaty benefits.

APPENDIX XIII

Forms, Publications, and References

State of North Carolina

- **Foreign National Data Gathering Form**, is to be prepared by non-resident alien individuals and submitted with each voucher and other documentation for payments to nonresident alien independent contractors. (Refer to Appendix IV)
- **Certificate of Academic Activity** (Refer to Appendix XIV)
- **Publication NC-30, Income Tax Withholding Tables and Instructions for Employers**, Income Tax Withholding Tables and Instructions for Employers
- **Form NC-4, Employee's Withholding Allowance Certificate**. Used as the basis for calculating state income tax withholding from pay.
- **Form NC-4 NRA, Nonresident Alien Employee's Withholding Allowance Certificate**, used by a nonresident alien to determine the correct amount of State income tax withholding from pay.

U.S. and Naturalization Service Forms and Documents

- **Employer Information Bulletin 96-08: Employee or Independent Contractor**, provides information on how to identify an independent contractor for USCIS purposes.
- **Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status**, required for J-1 nonimmigrant exchange visitors.
- **Form I-151, Alien Registration Card** (Green Card) replaced effective March 20, 1996 with the I-551.
- **Form I-551, Alien Registration Receipt Card**, issued by the Immigration and Naturalization Service, is the official document to identify permanent resident aliens.
- **Form I-9, Employment Eligibility Verification**, must be completed by each worker and is used by the agency to determine the worker's citizenship status, employment authorization and identification and registration numbers.
- **Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status**, is to be completed by an official of the school attended by the F-1 holder. The form is a certification concerning the educational program and financial support of the student.
- **I-94 Card, Departure Record**, issued to non-immigrant aliens upon arrival in the U.S. The departure record contains the alien's name, country of citizenship, date of birth, visa type and the date through which the alien may stay. Changes in the alien's status, extensions of stay and eligibility for employment may be noted. Majority of I-94 forms and travel history are electronic and can be printed at the following site: <https://i94.cbp.dhs.gov/i94/#/home>
- **Visa**, an official endorsement of a passport indicating the owner has permission to enter or cross a particular country. The visa type further identifies the primary purpose of the visit and relates to a section of law. In most instances, the section of law refers to the Immigration and Nationality Act. Nonimmigrant visas have one letter and one number or one letter. Immigrant visas have either two letters and one number or one letter and two numbers, and the holders are classified as resident aliens.

Internal Revenue Service Forms and Publications

- **Form 1042-S, Foreign Person's United States Source Income Subject to Withholding**, is prepared by the payor (for example, state agency, university, community college, or LEA/Charter Schools) to record compensation reportable/taxed/exempted under tax treaty for Chapter 3 and Chapter 4 payments. For all rules, please reference the IRS instructions for Form 1042-S.
- **Form 8233, Exemption from Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual**, is required to be completed by the nonresident alien when he or she claims a treaty exemption. The agency or college is responsible for monitoring the tax treaty benefit eligibility period for each individual who has filed a Form 8233.
- **Form W-4, Employee's Withholding Allowance Certificate**. Used as the basis for calculating federal income tax withholding from pay.
- **IRS Notice 1392, Supplemental Form W-4 Instructions for Nonresident Aliens**. Nonresident aliens must follow special instructions when completing Form W-4, for compensation paid to such individuals as employees performing dependent personal services in the United States.
- **Form W-7, Application for IRS Individual Tax Identification Number, (ITIN)**, is for individuals not otherwise eligible to receive a social security number.
- **Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding (individual)**, a statement of nonresident alien tax status.
- **Form W-8BEN-E, Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities)**, used by foreign entities to document their status for purpose of chapter 3 and chapter 4, and to claim tax treaty benefits.
- **Form W-9, Request for Taxpayer Identification Number and Certification**, a statement of resident alien tax status.
- **IRS Publication 15, Employer's Tax Guide**
- **IRS Publication 15A, Employer's Supplemental Tax Guide**
- **IRS Publication 15-T, Federal Income Tax Withholding Methods**
- **IRS Publication 515, Withholding of Tax on Non-resident Aliens and Foreign Corporations**
- **IRS Publication 519, U.S. Tax Guide for Aliens**
- **IRS Publication 520, Scholarships and Fellowships**
- **IRS Publication 570, Tax Guide for Individuals with Income From U.S. Possessions**
- **IRS Publication 597, Information on the United States – Canada Income Tax Treaty**
- **IRS Publication 901, United States Tax Treaties**
- **IRS Publication 1542, Per Diem Rates**
- **IRS Publication 1915, Understanding Your IRS Individual Taxpayer Identification Number**

IRS forms and publications may be ordered:

By Phone 1-800-829-3676

Online [Paper Copies](#)

With a Computer Download them from the IRS web site <http://www.irs.gov>

Social Security Administration Forms

Form SS-5, *Application for Social Security Card*, is required to be completed and submitted to the Social Security Administration by eligible individuals. Additional forms may be obtained from your local Social Security Office, ordered by calling 1-800-772-1213 or at <http://www.ssa.gov>.

Reference Sources

- *Handbook for Employers*, Booklet M-274, U.S. Citizenship and Immigration Services
- Lowell G. Hancock, Issue Specialist, Internal Revenue Service, International, Foreign Payments Division
- *Immigration Procedures Handbook*, Fragomen, Austin T., Jr., Del Rey, Alfred J., Jr., and Bell, Steven C., Clark Boardman Callagan, 1997.
- *Immigration Law Report*, U.S. Taxation of Foreign Students and Scholars, Singer, Paula N. Vol I. 15, No. 8, April 15, 1996
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- [Internal Revenue Code](#)
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- Manual from Nonresident Alien Tax Compliance Immigration Workshop in Washington, D.C., September 11, 1996, written by Eleanor Pelta and Laura Fotte Reiff, immigration attorneys
- *Nonresident Alien Tax Compliance: A Guide for Institutions Making Payments to Foreign Students Employees, and Other International Visitors*, Kepley, Donna E., Arctic International, 2000, Washington, D.C.
- Siskind's Immigration Bulletin
- U.S. Treasury Regulations
- [U.S. Citizen and Immigration Services](#)
- United States Information Agency

Certificate of Academic Activity

Compliance Statement for the American Competitiveness and Workforce Improvement Act, Section 431:

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

PAYMENT REQUIREMENTS:

Honoraria

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

Travel and Incidental Expenses

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

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

VISITOR INFORMATION:

Last Name: _____ First Name: _____

Social Security Number or Individual Taxpayer Identification Number: _____

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

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

The dates of my activity at the <<INSERT NAME OF ENTITY>> will be from: _____ to _____

Please indicate the type of activity you will be engaged in while at the University:

- Guest lecturer Conference participant Researcher
 Other: If other, please describe: _____

ACKNOWLEDGEMENT AND CERTIFICATION:

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

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

Signature: _____ Date: _____

Statement of Department Head or Business Manager: As sponsor of the above individual, I attest that the individual has been engaged in activities described above for the benefit of <<INSERT NAME OF ENTITY>> for nine days or less. I attest that the activities for which the individual is being paid or reimbursed are within the broad realm of customary academic activities associated with teaching, research, public service, academic administration or academic operations

Signature: _____ Date: _____