

## **Payments to Foreign Nationals**

Payments to non-U.S. citizens involve a myriad of issues regarding U.S. Citizenship and Immigration Services (USCIS) governing authorization as well as IRS rules surrounding taxation. If your department is planning on bringing a non-U.S. citizen to campus and paying them, please contact Bill Fisher in Financial Services 30 days prior to their arrival. United States immigration regulations restrict the types of payments that can be made to persons who are neither citizens nor permanent residents of the United States. The determination of whether payment is permissible is based on an individual's current immigration status.

Once it is determined that a payment is in accordance with U.S. immigration rules, the payment must be reviewed and appropriately classified in order to ensure that appropriate income tax reporting and withholding requirements are satisfied. An individual may claim a reduced Federal income tax withholding rate if there is a tax treaty in effect between the U.S. and the individual's country of residence, all of the requirements in the treaty are satisfied and all the exemption forms are completed and signed.

The following outlines the required procedures when making payments to nonresident visitors for services performed for Skidmore College in the United States. This process should start 30 days prior to the visitor's arrival on campus.

### **STEP 1** – VISA STATUS

In order to pay a nonresident visitor for services, the individual must enter the United States in a visa status that allows the College to issue payment. Please contact Bill Fisher in Financial Services 30 days prior to their scheduled arrival on campus. Generally, nonresident visitors must enter the US in a business class visa status in order to be permitted to provide services to the College. This includes B-1 Visa or a VW-B Visa (if the visitor enters the United States under the Visa Waiver Program). We will need the following information:

- Country of Citizenship
- Country of Tax residency, if different
- Date of entry into the U.S.
- Visa Status used to enter U.S.
- Nature of the services to be provided
- Letter on Skidmore letterhead inviting guest to come and details of the visit

### **STEP 2** – TYPE OF PAYMENT

We must determine the category of payment to be made.

**Expense Reimbursement Only** – Generally travel and living expense reimbursements to nonresident independent contractors are not subject to taxation and reporting requirements. This is contingent on the business purpose being documented and the original receipts are submitted. The following information would be needed:

- Visa status and copy of Form I-94
- Expense Report with original receipts attached

**Payment for services** (including honorarium) the following information would be needed:

- Visa Status and copy of Form I-94
- Copy of Passport and Visa
- Social Security Number or ITIN, if any
- Letter of Agreement

### **STEP 3** – TAX TREATY IMPLICATIONS

If the nonresident visitor is from a country that has a tax treaty with the United States, they may be able to take advantage of certain treaty benefits. Financial Services will assist in determining if tax treaty benefits are available and in filing all the appropriate IRS forms to activate the treaty. The following requirements must be met in order for tax treaty benefits to be granted:

Individual must be a tax resident of a treaty country before entering the U.S.

- Type of payment (such as honoraria) must be covered by the treaty
- Must have SSN, ITIN or apply for an ITIN
- Completion and signing of Form 8233
- Visa Status and copy of Form I-94
- Copy of Passport and Visa
- Letter of Agreement

The Foreign National Information form must be filled out and sent to Bill Fisher in Financial Services prior to the nonresident coming to campus.

Please note that if the College is requested to make a payment to a U.S. person or entity and we have knowledge that the U.S. person or entity is receiving the payment as an agent of a foreign person, we must treat the payment as if it were made to the foreign person. This may require additional documentation related to the individual's immigration status. The IRS requires the College to look through these agency relationships to the primary beneficiary of the income. Certain exceptions are permitted if Skidmore withholds taxes on the requested payment at a rate of 30%.

Please also note that this summary policy is not meant to be all inclusive due to the complexity of the related tax laws. U.S. tax law supersedes this policy.