

UNIVERSITY OF WYOMING

Tax Office

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Procedures for international honorarium recipients and international performers

With the new purchase order rules for personal services some questions have come up in regards to how to handle payments to international vendors, specifically for international honorarium recipients and international performers. I wanted to provide some clarification on these issues as it is much easier to make sure things are done correctly in the planning stages rather than after the visitor has already arrived, performed services and left the country. **The tax and immigration laws related to these payments are very specific and must be followed or the University may not legally be able to pay the visitor.**

I have provided a summary of the rules below, however they are confusing and each situation is different and dependent on multiple variables such as where the visitor is from, what type of visa they hold, their tax status in the U.S. and any prior business visits to the U.S. **Please contact the tax office BEFORE the visitor arrives in the U.S. so a tax determination can be made. Payments to international payees have to be approved by the tax office before accounts payable will process the check.** Please also keep in mind that procurement or legal may also need to be involved in getting your payment approved so please plan accordingly and allow sufficient time to have your payment processed.

Honorarium

An **honorarium** for an international visitor is defined as a gratuitous payment of money or other thing of value to a person for their participation in a **“usual academic activity”**. There is a broad definition of usual academic activity that includes lecturing, teaching, sharing knowledge, and meetings of boards or committees that benefit the institution. It also includes performances, master classes and readings as long as there is not a commercial nature to the events and they are open to students and the general public free of charge.

Entrance Visa

To receive an honorarium, a visitor **must have a visa that legally permits the recipient to receive income. Tourist visas such as B-2 visas do not allow the recipient to earn any income during their time in the U.S.** as the visa is specifically designated for pleasure or tourism. It is therefore important that we make sure the visitor is aware that they need to apply for a **B-1 (Visitor for Business)** visa. Often immigration officials want to stamp everyone with a B-2 (visitor for pleasure or tourism) stamp to keep the line moving, so it is essential to emphasize the importance of getting a B-1 instead of a B-2 visa to our international visitors.

- 1. Visa Waiver Countries** – Business visitors from waiver countries may generally come in to the U.S. without applying for a visa and they generally need to preauthorize their travel on the ESTA ([Electronic System for Travel Authorization](#)) website. Typically visitors from waiver countries will receive a VWT (Visa Waiver for Tourism) stamp upon entering the U.S. **The VWT stamp is the equivalent to the B-2 visa and these visitors generally cannot receive payments or earn income while in the U.S.** Visitors coming from visa

waiver countries need to let the immigration agent know that they are coming to the U.S. for business so that they will receive a **VWB (Visa Waiver for Business) stamp**. They generally need to provide proof of their business purpose, such as a copy of their contract, to the immigration agent. If they do not have a VWB stamp, the University generally cannot pay them an honorarium.

2. **Canadian Business Visitors** – Canada is not a visa waiver country but is visa exempt which means Canadian's generally do not need visa's if they are traveling for pleasure or as tourists, **however if they are coming to the U.S. for business, they will need to state this at the border so they get a B-1 stamp in their passport**. Business visitors from Canada generally need to provide proof of their business purpose, such as a copy of the contract, to the immigration agent. If they do not have a B-1 stamp, the University generally cannot pay them an honorarium.

Tax Withholding

The University is required by law to **withhold tax at the rate of 30%** from any payment for services to an international visitor unless there is an exclusion such as a tax treaty that would exempt the recipient from withholding. There are tax treaties between the U.S. and about 60 other countries that may provide an exemption to the mandatory 30% withholding requirement. This needs to be determined on a case by case basis. **If the University does not withhold the required 30% in tax from the international visitor, the University is responsible for paying the tax, and most often there will be penalties and interest involved at this point as well.**

1. **Tax Treaties** – If it is determined that the international visitor is eligible for a tax treaty, the Tax Office will need to obtain additional information from the visitor and **meet them in person to have documents signed and obtain copies of their visa, passport and other immigration paperwork.**

“9/5/6 Rule”

This 9/5/6 rule states that during a **6 month period** an international visitor may accept an honorarium and/ or travel reimbursement from **no more than 5 institutions** and the recipient cannot work more than **9 days at each institution**. The visitor may stay in the U.S. longer than the 9 days but can only work for 9 days at each institution. **If the visitor can not comply with the 9/5/6 rule or is going to be working at UW for longer than 9 days, they will likely need to apply for a J-1 short term scholar visa through the International Students and Scholars Office (307-766-5193) and will likely need to be paid as an employee of the University.**

Payments to agents for international performers

Although we may be writing the check to an agent for an international performer or group, **the person earning the income is actually the person performing, not the agent**. The agent is essentially acting as the intermediary or a bank for the performer but the performer is the one providing the services, therefore earning the income. **This means we have to get enough information from the performer (or all of the performers if it is a group) to correctly report the income to the performers at tax time at the end of the year**. Agents are generally familiar with these requirements and will help us obtain the information we need. This regulation is specific to international performers and does not apply to payments to agents for U.S. performers.

Payments to agents for international performers - continued

- 1. IRS notices regarding withholding** – The IRS is figuring out when these performers are coming to the U.S. (likely from the visa applications) and sending notices stating our requirements as the payer of income in regards to the international performers. **Please provide a copy of any notices received to the Tax Office.**
- 2. Central Withholding Agreements** – Central Withholding Agreements or CWA's are agreements that performers have made with the IRS that may reduce the rate of tax withholding on the payments they receive. The University will receive notification from the IRS that a CWA is in place and it will state exactly what the University is required to do to be in compliance with the tax laws. **Please provide a copy of the CWA to the tax office. I will need to have a copy of the CWA before I can approve the payment being issued.**
- 3. Performer Visa types** – We can pay a performer an honorarium however if the performer is touring they often will not be able to comply with the 9/5/6 rule. These performers will likely have a P visa which is specifically for international performers and international athletes.