

**RENSSELAER POLYTECHNIC INSTITUTE**

**Payments Made to Nonresident Aliens**

**Policy and Procedure Manual**



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*The Policies and Procedures for Payments to Nonresident Aliens manual was produced by the law firm of Baker & McKenzie in conjunction with the Controller's Office for the exclusive use of Rensselaer Polytechnic Institute and should not be disclosed or distributed to third parties. Updated by Disbursement Operations September 2005.*

## NONRESIDENT ALIEN SUMMARY

- **Most payments made to or on behalf of a nonresident alien must be reported to the Internal Revenue Service.** Travel reimbursements are no longer taxable or reportable to the IRS as long as Rensselaer follows the accountable plan rules. This simply means that we reimburse actual expenses via an expense report.
- **In addition, all reportable payments are subject to federal income tax withholding unless they are specifically exempted either by the U.S. tax law or by an income tax treaty.** (Note, there are tax treaties with approximately 63 countries, each of which is unique and different.)
- Examples of payments made to nonresident aliens include, but are not limited to:

Wage/Compensation	Scholarships	Honoraria
Stipends	Fellowships	Prize/Awards
Independent Contractor Payments	Book Allowances	Royalties
Consultant Payments	Living Allowances	Commissions

Note: Credits to a student's account qualify under these requirements.

- Each payment requires the review of certain key factors, including:
    - Visa Type
    - U.S. Residency Status (US citizen, resident alien, nonresident alien)
    - Substantial Presence Test
  - If a nonresident alien is exempt from federal income tax withholding because of an income tax treaty, the individual must file the appropriate form to claim the exemption:
    - Form 8233 – Compensation (employees and independent contractors) and related payments
    - Form W-8BEN – Scholarship, fellowship (no service, royalties and other non-compensation payments).
  - Payments that require federal income tax withholding are taxed at 14%, 30%, or graduated withholding rates depending on the type of payment.
  - **Form 1042S is the annual tax form that is used to report payments and tax withholding to nonresident aliens.** The Institute must issue the form to the nonresident aliens no later than March 15. A nonresident alien may also, in some situations, receive a Form W-2, which must be issued by the Institute no later than January 31.
  - Rensselaer Polytechnic Institute is committed to ensuring full compliance with our tax laws. Because the reporting and taxation requirements of nonresident aliens are very complex, the Institute has designated a Nonresident Alien Tax Specialist to monitor all payments made to nonresident aliens. As such, this manual will serve as a guideline for individuals and departments to enable all parties to meet the reporting and taxation requirements of the Institute.
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## INTRODUCTION

**The Internal Revenue Code states that, when appropriate, a withholding agent is required to withhold federal income tax from all payments made to or on the behalf of a nonresident alien, and requires that all such payments be reported to the IRS.** Therefore, in order for the Institute to be in compliance with the law, the Institute must be able to identify **all** payments made to a nonresident alien or to a third party on his/her behalf. The Institute is then required to apply the appropriate tax withholding and report the payments made to those individuals in the correct manner. **Please note that the U.S. tax withholding and reporting rules governing nonresident aliens are quite different from those governing U.S. citizens and resident aliens.**

The Institute has designated a Nonresident Alien Tax Specialist to monitor **all** payments made by the Institute for possible nonresident alien tax withholding and reporting liability, to ensure compliance with all IRS rules and regulations, and to confirm that all information and required forms have been completed and collected. The Nonresident Alien Tax Specialist will be charged with making final determinations of U.S. tax residency status, applying applicable tax withholding, and reporting requirements for all payments made by the Institute. Therefore, all questions concerning the policy and procedures contained in this manual should be directed to the Nonresident Alien Tax Specialist.

The first step in analyzing any payment is to determine the individual's U.S. residency status for tax purposes – that is, whether the individual is, in fact, a “nonresident alien.” This threshold determination must be made regardless of the payment type (e.g., compensation, fellowships, and stipend) or payment method (e.g., Payroll, Accounts Payable, or Student Accounts). Such a determination will depend on a variety of factors specific to each individual's situation. Therefore, the Institute must collect all necessary information required to make a residency determination prior to making any payment to the individual. **The department administrator is responsible for ensuring that all information for non-employees necessary to make a U.S. residency determination for tax purposes is collected, or that a new employee has completed the necessary forms prior to employment, and not the analysis of any forms.**

### **Possible Exemptions from Tax Withholding**

An individual may be eligible to claim an exemption from the 30/14 percent and graduated rates of withholding if he or she qualifies for an income tax treaty exemption. An income tax treaty is an agreement between the U.S. and a foreign country that is intended to alleviate double taxation. Income tax treaties also contain various provisions designed to promote cross-cultural education and exchange by allowing students, teachers, researchers, and other scholars of one country to perform certain related activities in the other country and receive an exemption from tax. These “tax treaty” exemptions are usually only valid for a limited time and/or for a specified dollar amount. An individual must meet the qualifications of a particular tax treaty in order to claim an exemption. The Nonresident Alien Tax Specialist will review the information collection by the requesting department to determine whether the individual qualifies for a tax treaty exemption and will assist the individual in completing the necessary IRS forms and will submit all necessary forms on behalf of the individual to the IRS.

Following is a general overview of the procedures for making payments to nonresident aliens; a detailed discussion of the procedures for properly requesting each type of payment is included in the subsequent pages. **Failure to follow the payment processing steps set forth in this manual will result in the maximum amount of tax withholding for the individual and a significant potential tax liability for the Institute. Therefore, it is essential that all deans, directors, financial managers, administrators and other personnel clearly understand and comply with the Institute’s policies and procedures for payments made to nonresident aliens as set forth in this manual.**

Employees Including Student Employees		Independent Contractors and Honoraria Recipients		Students F, J, M, or Q visa holders receiving scholarship or fellowship (no service required) grants/awards	
With Treaty Exemption	Without Treaty Exemption	With Treaty Exemption	Without Treaty Exemption	With Treaty Exemption	Without Treaty Exemption
Alien Information Collection Form  Meeting with Nonresident Alien Tax Specialist  Form 8233 (and Additional Revenue Procedure Statements)	Alien Information Collection Form  Meeting with Nonresident Alien Tax Specialist	Alien Information Collection Form  Form 8233	Alien Information Collection Form  Signed statement from payee	Alien Information Collection Form  Form W-8BEN	Alien Information Collection Form

## DEFINITIONS

**Calendar Year:** For U.S. tax purposes, a person is considered to be in the U.S. for a “calendar year” if he/she is present during one or more days between the period from January 1 – December 31. For example, if an individual is present in the U.S. from December 15 – 31, he/she is present in the U.S. for one calendar year, even though he/she is here for only 17 days.

**Form I-94:** Form I-94 (Arrival/Departure Record) (the small white card stapled in the front of the passport). This document controls the terms of stay, or status in the United States.

**Nonresident Alien for Tax Purposes:** An individual who has not met or passed the substantial presence test. A nonresident alien is taxed only on his/her income from U.S. sources, using special tax withholding, reporting and filing guidelines

**Original Date of Entry to the U.S.:** An individual may enter or leave the U.S. several times during the period of his/her U.S. visit (for vacation, holidays, etc.) The original date of entry is the U.S. is the **first** date that he or she arrived in the U.S. before beginning his/her study, teaching, research, etc.

**Permanent Resident Alien:** An individual who has been granted the legal privilege of living and working in the United States indefinitely. A permanent resident alien (i.e, green-card holder) is taxed on his worldwide income and in the same manner as a U.S. citizen.

**Resident Alien for Tax Purposes:** An individual who has met or “passed” the substantial presence test by the number of days physically present in the U.S. or has been granted lawful permanent residence in the United States as a permanent resident alien. Resident aliens are taxed on their worldwide income and in the same manner as U.S. citizens.

**Substantial Presence Test:** A test used to determine an individual’s U.S. residency status for tax purposes. It involves a calculation of the number of days that an individual has been present in the U.S. over a period of three years.

**Tax Treaty:** The U.S. maintains tax treaties or agreements with over 63 countries in an effort to reduce or eliminate double taxation.

**U.S. Residency Status For Tax Purposes:** U.S. Tax is applied to income based upon an individual’s U.S. residency status for tax purposes; this status is not associated with the individual’s immigration or visa status. A non-U.S. citizen’s residency status is either a resident alien or nonresident alien. A resident alien is taxed on worldwide income in the same manner as a U.S. citizen; a nonresident alien is taxed only on income from U.S. sources.

**Visa Type:** “Visa type” refers to the category of visa that a non-U.S. citizen holds. The “visa type” is marked on the visa stamp or sticker in the individual’s passport. For more information regarding the various types of visas or appropriate type of visa needed for a particular individual, see the visa chart on the following page and/or contact the Office of International Student and Scholar Services.

A-1, A-2	Diplomats, foreign government officials, and their dependents. Some dependents are granted work authorization.	<b>VISA Classifications</b>
B-1	Business visitors. No employment authorization. Eligible to receive honoraria, reimbursement for travel expense and per diem in limited situations.	
B-2	Visitor for pleasure. No employment authorization. Eligible to receive honoraria, reimbursement for travel expenses and per diem in limited situations.	
C-1	Transit visa. Not work authorization.	
D-1	Foreign crewmembers. Work authorized for sponsoring employer.	
E-1	Treaty trader. Work authorized for sponsoring employer.	
E-2	Treaty investor. Work authorized for sponsoring employer.	
F-1	Students. Work authorized under very limited conditions.	
F-2	Dependents of students. No work authorization.	
G-1, G-2 G-3, G-4	Employees of international organizations. Some dependents are granted work authorization.	
H-1A	Nurses. Work authorized for the sponsoring employer.	
H-1B	Professionals. Work authorized for the sponsoring employer. May only receive compensation as employee from sponsoring employer.	
H-2A	Temporary Agricultural Workers. Work authorized for sponsoring employer.	
H-2B	Temporary workers. Work authorized for sponsoring employer.	
H-3	Trainee. Work authorized for sponsoring employer.	
H-4	Dependents of H visa holders. No work authorization.	
I-1	Foreign Journalists. Work authorized for sponsoring employer. Dependents are not work authorized.	
J-1	Exchange visitors including students, teachers, researchers and trainees. Work authorized under certain circumstances for sponsoring institution or entity designated by sponsor, as allowed by program.	
J-2	Dependents. Work authorized under certain circumstances.	
K-1	Fiancee of U.S. citizen, Work authorized.	
K-3, K4	U.S. citizen spouses and dependents waiting for permanent residence. Work authorized	
L-1A	Intra-company executive or managerial transferee. Work authorized for sponsoring employer.	
L-1B	Intra-company specialized knowledge transferee. Work authorized for sponsoring employer.	
L-2	Dependents. No work authorization.	
M-1	Vocational student. Work authorized under certain conditions.	
M-2	Dependents. No work authorization.	
O-1	Individual of extraordinary ability in the sciences, education, business, athletics or the arts. Work authorized for sponsoring employer or agent.	
O-3	Dependents. No work authorization.	
P-1	Internationally known athletes and entertainment groups. Work authorized for sponsoring employer.	
P-2	Performing artists under a reciprocal exchange program. Work authorized for sponsoring employer.	
P-3	Culturally unique entertainers. Work authorized for sponsoring employer.	
P-4	Dependents. No work authorization.	
Q-1	International Cultural Exchange. Work authorized for sponsoring employer.	
Q-2	Special Irish trainees. Work authorized for sponsoring employer	
R-1	Religious Workers. Work authorized for sponsoring employer.	

## DETERMINING U.S. TAX RESIDENCY

### **Is the Individual a U.S. Resident Alien or Nonresident Alien for Tax Purposes?**

The Alien Information Collection Form is designed to collect the information necessary to determine the U.S. tax residency status of a non-U.S. citizen and non-permanent residents of the U.S. The form contains the information necessary for the Nonresident Alien Tax Specialist to apply the Substantial Presence Test to make such determinations. All non-U.S. citizen and non-permanent residents of the U.S. payees must complete the Alien Information Collection Form prior to making any payment regardless of the payment method (e.g., Payroll, Accounts Payable or Student Accounts). **All new employees who, when completing Form I-9, indicate that they are a non-U.S. citizen or permanent resident alien will be asked by the Human Resource Department or hiring department to complete the Alien Information collection Form.**

When requesting a payment to a non-employee, the department requesting the payment will determine if the individual is a U.S. citizen or permanent resident alien; if the individual is not a U.S. citizen or permanent resident alien, the individual must complete the Alien Information Collection Form to determine his/her U.S. residency status for tax purposes. **The department administrator is NOT responsible for making any U.S. tax residency status determination.**

### ***How to complete the Alien Information Collection Form:***

1. **Name and Address/Phone:** Enter full name and U.S. address/phone number.
2. **Country of Citizenship:** Enter country of citizenship.
3. **Social Security Number or ITIN (Individual Taxpayer Identification Number):** Enter U.S. social security number. If the individual is from Canada, do NOT enter a social security number issued by the Canadian government. If the individual is an employee and does not have a SSN, he/she must apply for one immediately. To apply for a SSN, the individual must visit the Social Security Administration Office, at 500 Federal Street, Troy, NY Office hours are 9:00 – 5:00, the individual must have an authorization letter issued by the ISSSO and take his or her passport, I-94 card, and I-20 (F students) DS 2019 (J visa holder). If the individual has already applied for a SSN but has not yet received the number, enter “Applied” in the box. It will take approximately two to four weeks to receive the social security card; the individual must notify the Office of Student Records, Nonresident Alien Tax Specialist and International Student and Scholars Services Office when the number is received.  
If the individual is receiving a non-service type payment (ex. Scholarship or awards) or non-payroll (ex. Honoraria, independent contractor ) they must obtain an **ITIN (Individual Taxpayer Identification Number)**. The Office of International Student and Scholars Services will assist students in applying for such a number. The Nonresident Alien Tax Specialist (in Disbursement Operations) will assist individuals receiving payment through the Accounts Payable system obtain the number.
4. **Status:** Indicate whether the individual is an employee, student and/or non-employee.
5. **Address in Home Country:** Enter the permanent foreign address.
6. **Current Visa Status:** Indicate the type of visa on which the individual is currently present in the U.S.
7. **Original Date of Entry to U.S.:** Indicate the first date on which the individual entered the U.S. for the purpose of this visit.
8. **Visa Expiration:** Enter the date on which the individual’s permission to stay in the U.S. expires.
9. **Prior Visit:** Has the individual been present in the U.S. prior to this particular visit? If yes, Enter the date on which the individual was present in the U.S. and the type of visa held during the prior visit.

**Sample Form: Alien Information Collection Form (Front)**

THIS FORM IS FOR THE EXCLUSIVE USE OF RENSSELAER POLYTECHNIC INSTITUTE AND SHOULD NOT BE DISCLOSED TO THIRD PARTIES.

**RENSSELAER POLYTECHNIC INSTITUTE**  
Alien Information Collection Form

The following information will allow Rensselaer to determine your U.S. residency status for tax purposes and is not associated with immigration or visa classification. The information requested below is strictly confidential and will be used for tax withholding and reporting purposes only.

PLEASE COMPLETE ALL APPLICABLE QUESTIONS

**A. PERSONAL INFORMATION**

NAME (Last of Family) First or Formal Middle	COUNTRY OF CITIZENSHIP	SOCIAL SECURITY NUMBER
U.S. ADDRESS (Street)	STATUS (Check all that apply)	
CITYSTATEZIP CODE	ADDRESS IN HOME COUNTRY (Street)	
PHONE NUMBER (Home)(Work)	CITYCOUNTRY POSTAL CODE	
	<input type="checkbox"/> Employee <input type="checkbox"/> Student <input type="checkbox"/> Non-Employee	

**B. DEFINITIONS**

Because some of the language on this form may be confusing, before you begin to complete the question below, please read the following definitions:

**CALENDAR YEAR:** For U.S. tax purposes, a person is considered to be in the U.S. for a "calendar year" if he or she is present during one or more days between the period of January 1 - December 31. For example, if you are present in the U.S. from December 15-31, you are treated as in the U.S. for one full calendar year, even though you are only here for 17 days.

**ORIGINAL DATE OF ENTRY TO THE U.S.:** You may enter and leave the U.S. many times during the period of your study or research in the U.S. (for vacation, holidays or summer break). The original date of entry to the U.S. on your current visa status is the first date that you arrived in the U.S. to begin your study, teaching, research etc., not the last date you entered the U.S.

**VISA STATUS:** When completing this form, all questions concerning "visa status" refer to the category of visa that you currently hold. Your "visa status" is marked on the visa stamp/sticker in your passport or on your Form I-94 (see below). For example, if you are a student, your visa status may be F-1 or J-1.

**FORM I-20:** A Form I-20 is a white form which is sent to all F-1 students by Rensselaer; it lists the details of your program of study in the U.S.

**U.S. FORM DS-2019:** A Form DS 2019 is a form which is given to all J-1 visaholders by Rensselaer or other sponsoring institutions; it lists the details of your visit to the U.S. There are several categories of J-1 visas which are issued; the category of your J-1 is stated in section 4 of the Form DS 2019. For example, section 4 of the Form DS 2019 will state whether you are a J-1 student, J-1 professor, J-1 researcher, etc.

**FORM I-94:** A Form I-94 is your Arrival/Departure card (the small white card stapled in your passport). The date written on this card is the date on which your permission to stay in the U.S. expires; if D/S is written on your card, use the date found on your Form I-20 or DS 2019.

**C. CURRENT IMMIGRATION CATEGORY**

My current visa status is (mark only one box):	Original date of entry to U.S. on current visa status
<input type="checkbox"/> Permanent Resident/Immigrant (Complete Section E and F; do not complete Section C or D)	
<input type="checkbox"/> F-1 Student <input type="checkbox"/> H1-B Employee	When does your permission to stay in the U.S. expire? (Use date found on your Form I-20, DS 2019 or I-94)
<input type="checkbox"/> J-1 Student <input type="checkbox"/> B-1 Visitor	
<input type="checkbox"/> J-1 Professor, Researcher or Scholar <input type="checkbox"/> Other: _____	Have you ever been in the U.S. under a different visa status? If yes,
	When _____ Visa Status _____

PLEASE COMPLETE THE REVERSE SIDE OF THIS FORM

*How to Complete the Alien Information Collection Form (continued):*

**Substantial Presence Test:**

10. **Step 1:** Indicate whether the individual is a Student present in the U.S. for less than five calendar years, or a Teacher, Specialist or Professor present in the U.S. for less than two calendar years, (see definition of “calendar year” on page 6). If either box in Step 1 is marked, do not complete Step 2, complete only Section E and F.
11. **Step 2:** If neither box in Step 1 was marked, indicate the number of days the individual has been present in the U.S. during a three calendar year period by following the instructions set forth on the form.

**Current Year:** Indicate the number of days present in the U.S. during the current calendar year.

**1<sup>st</sup> Preceding Year:** Determine the number of days present in the U.S. during the last calendar year and divide that number by 3.

**2<sup>nd</sup> Preceding Year:** Determine the number of days present in the U.S. during the calendar year before the last calendar year and divide that number by 6.

**Total:** Add the calculated numbers.

If the Total is less than 183 days, the individual is a nonresident alien for tax purposes: if the Total is equal to or greater than 183 days, the individual is a resident alien for tax purposes.

12. **Residency Status:** Indicate the individual’s residency status based upon the results of Step 1 OR Step 2 of the Substantial Presence Test.
13. **Signature and Date:** The individual must sign and date the form.

**Sample Form: Alien Information Collection Form (Back)**

**D. RESIDENT ALIEN/NON-RESIDENT ALIEN DETERMINATION**

STEP 1	<p>_____ I am a STUDENT on an F-1 or J-1 visa AND I have been in the U.S. as a student on an F-1 or J-1 visa for a total of five or fewer calendar years.</p> <p>_____ I am a PROFESSOR, RESEARCHER, or SCHOLAR on a J-1 visa AND I have been in the U.S. as a Professor, Researcher, or Scholar on a J-1 visa for a total of less than two of the past six calendar years</p> <p>If you marked either box, you are a NON-RESIDENT ALIEN for tax purposes. Complete Box E, do not complete STEP 2.</p> <p>If you <u>did not</u> mark either box, complete STEP 2.</p>																									
STEP 2	<p>This STEP 2 involves a calculation of the number of days that you have been physically present in the U.S. For purposes of this calculation, <u>DO NOT include in your calculations any days that you are or were present in the U.S. as:</u></p> <p>* A student (or the dependent of a Student) on an F, J, or M category visa (during the first five calendar years that you are present in the U.S.)</p> <p>* A Professor, Researcher, or Scholar (or the dependent of a Professor, Researcher, or Scholar) on a J category visa (during the first two calendar years of the past six calendar years that you are present in the U.S.)</p> <p>Example: If you arrived in the U.S. for the first time on August 15, 1992 as a J-1 researcher and you have been in the U.S. since that date, do not include in your calculation the days that you are or were present in the U.S. for the first two calendar years (1992 and 1993). If you have no days in a calendar year to include in your calculation, enter a "0" (zero) on the line for "Number of Days in U.S." For this example, you would only include the number of days present in the U.S. from January 1, 1994, until the present.</p> <p>Example: If you arrived in the U.S. for the first time on September 1, 1990 as an F-1 student and you have been in the U.S. since that date, do not include in your calculation the days that you are or were present in the U.S. for the first five calendar years (1990, 1991, 1992, 1993, and 1994). If you have no days in a calendar year to include in your calculations, enter a "0" (zero) on the line for "Number of Days in U.S." For this example, you would begin to count the number of days present in the U.S. from January 1, 1995.</p> <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 15%; text-align: center;">YEAR</th> <th style="width: 15%; text-align: center;">NUMBER OF DAYS IN U.S.</th> <th style="width: 15%; text-align: center;">CALCULATION FOR</th> <th style="width: 25%;"></th> </tr> <tr> <th></th> <th></th> <th></th> <th style="text-align: center;">SUBSTANTIAL PRESENCE</th> <th></th> </tr> </thead> <tbody> <tr> <td>Current Year</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____ X 1 =</td> <td></td> <td style="text-align: center;">_____</td> </tr> <tr> <td>1st Preceding Year</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____ X 1/3 =</td> <td></td> <td style="text-align: center;">_____</td> </tr> <tr> <td>2nd Preceding Year</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____ X 1/6 =</td> <td></td> <td style="text-align: center;">_____</td> </tr> </tbody> </table> <p>If the total is less than 183 days you are a NON-RESIDENT ALIEN for tax purposes. If the Total is equal to or greater than 183 days, you are a RESIDENT ALIEN for tax purposes.</p>		YEAR	NUMBER OF DAYS IN U.S.	CALCULATION FOR					SUBSTANTIAL PRESENCE		Current Year	_____	_____ X 1 =		_____	1st Preceding Year	_____	_____ X 1/3 =		_____	2nd Preceding Year	_____	_____ X 1/6 =		_____
	YEAR	NUMBER OF DAYS IN U.S.	CALCULATION FOR																							
			SUBSTANTIAL PRESENCE																							
Current Year	_____	_____ X 1 =		_____																						
1st Preceding Year	_____	_____ X 1/3 =		_____																						
2nd Preceding Year	_____	_____ X 1/6 =		_____																						

**E. SUMMARY OF RESIDENCY STATUS FOR TAX PRUPOSES**

<p>_____ I certify that I am a PERMANENT RESIDENT or IMMIGRANT ALIEN: Mail or deliver this form to the Non-Resident Alien Tax Specialist, Disbursement Operations 518-276-8696.</p>
<p>_____ I certify that I am a RESIDENT ALIEN for tax purposes: Mail or deliver this form to the Non-Resident Alien Tax Specialist, Disbursement Operations 518-276-8696.</p>
<p>_____ I certify that I am a NON-RESIDENT ALIEN for tax purposes: Non-Resident alien EMPLOYEES and STUDENTS should deliver this form in person to the Non-Resident Alien Tax Specialist, Disbursement Operations 518-276-8696, due to the possibility of an exemption from taxation based on an income tax treaty, you must also schedule an appointment to complete additional forms (call 518-276-8696 to schedule an appointment). Failure to complete the required additional forms will result in the automatic withholding of tax at the maximum rates. Non-resident alien NON-EMPLOYEES should return this form to the Rensselaer official who requested the form.</p>

**F. CERTIFICATION**

I declare under penalties of perjury that the information provided above is true and correct. If I receive an extension of my visa or if my visa/immigration status changes, I will notify the Non-Resident Alien Tax Specialist, Disbursement Operations, 518-276-8696.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

RS	IC	CC	FIT	DATE	AMT	FICA	APP

## The Substantial Presence Test

The substantial presence test is a method used by the IRS to determine if an individual should be taxed as a nonresident alien. This test is made each year, and in general, is a calculation of the number of days that an individual has been physically present in the U.S. during a three calendar year period.

An individual is taxed in the same manner as a U.S. citizen if he or she meets the substantial presence test by being physically present in the U.S. for 183 days, taking into account (i) all of the days present in the U.S. during the current calendar year, (ii) one-third of the days present in the U.S. during the first preceding calendar year, and (iii) one-sixth of the days present in the U.S. during the second preceding calendar year.

### *The “Exempt Individual” Rules*

Certain individuals are exempt from counting days toward the substantial presence test. They are individuals who are present in the U.S. under one of two circumstances:

- as a teacher, researcher or trainee who is temporarily present in the U.S. under a J or Q visa for two calendar years or less, or
- as a student who is temporarily present in the U.S. under and F, J, M, or Q visa for five calendar years or less.

The term “exempt individual” as used in connection with the substantial presence test refers only to an individual who is “exempt” from having to count days of presence in the U.S. **The term “exempt individual” does not refer to an individual who is “exempt” from paying federal income or FICA tax or filing a U.S. income tax return.**

## The Substantial Presence Test

To determine whether the individual is a “nonresident alien,” administer the substantial presence test:

*If the individual has been in the U.S. for less than 31 days in the current calendar year, he or she is automatically considered to be a nonresident alien for tax purposes.*

*Or*

*If the individual has been in the U.S. for 31 days or more and less than 183 days during a three year period including the current calendar year and the two immediately preceding calendar years using the following formula:*

- + **All days present in U.S. during current calendar year**
- + **1/3 of days present in the U.S. during 1<sup>st</sup> preceding calendar year**
- + **1/6 of days present in U.S. during 2<sup>nd</sup> preceding calendar year**
- = **Total number of days present in U.S. for tax purposes.**

The IRS requires that special tax withholding rates be applied to all payments made to nonresident alien individuals. The rate of tax withholding is dependent upon the type of nonresident alien recipient and the type of income paid. The existence of a tax treaty does not automatically ensure exemption from tax withholding. An individual must qualify for the treaty and complete certain forms to obtain the exemption. The following chart sets forth the generally applicable tax withholding rates.

Employees Including Student Employees		Independent Contractors and Honoraria Recipients		Students F, J, M, or Q visa holders receiving scholarship or fellowship (no service required) grants/awards	
With Treaty Exemption	Without Treaty Exemption	With Treaty Exemption	Without Treaty Exemption	With Treaty Exemption	Without Treaty Exemption
0% *	Withholding Rates using “Single”, One Withholding Allowance, and an additional \$7.60 per week	0% *	30%	0% *	14%

**\* Please note that income tax treaties typically contain annual dollar and/or time limits for income tax exemption. If an individual meets or exceeds the dollar and/or time limits, the tax treaty exemption is no longer applicable.**

## **Special Rules For Payments Made To B-1 B-2 Visa Holders**

### **Travel Reimbursements** (effective after 1/1/98)

Travel reimbursements made to or on behalf of an international visitor (B-1 and B-2) are no longer subject to tax withholding or reporting if certain rules are met. These rules are simply that an expense report must be submitted with actual expenses recorded and backed up with appropriate receipts.

### **Payments For Services to B-1 and B-2 Visa Holders** (effective after 1/1/98)

In addition, we are allowed to make honoraria, guest lecturer and independent contractor type payments to international visitors on a B-1 or B-2 visa. However, there are some restrictions. The recipient can only be on campus for no more than nine days and must not have accepted such payment or expense reimbursement from more than five institutions during the previous six months. (See the next page for the statement that must be signed by an international visitor receiving such payments.) Keep in mind that payments for services are taxed at 30% (unless a treaty exists) and are reported to the IRS.

MEMORANDUM

Date:

To: NRA Tax Compliance Specialist  
Disbursement Operations  
Rice Building

From:

The below individual has entered the US on a B-1 or B-2 visa. Per Immigration and Nationality Act guidelines, international visitors entering the US on a B-1 or B-2 visa can only receive non-employee compensation (independent contractor, honoraria, guest lecturer) and/or travel reimbursements if the below conditions are met.

The international visitor must sign the below statement before a payment can be made.

---

## Statement

I, \_\_\_\_\_ will be  
International Visitors Name (Print) Social Security Number/ITIN (if has one)  
on campus for no more than nine days and I have not accepted such payment or expense reimbursement from more than five institutions during the previous six months.

\_\_\_\_\_  
International Visitor Signature

\_\_\_\_\_  
Date

## PAYMENTS THROUGH THE PAYROLL SYSTEM

### Payments Made to New Employees Through the Payroll System

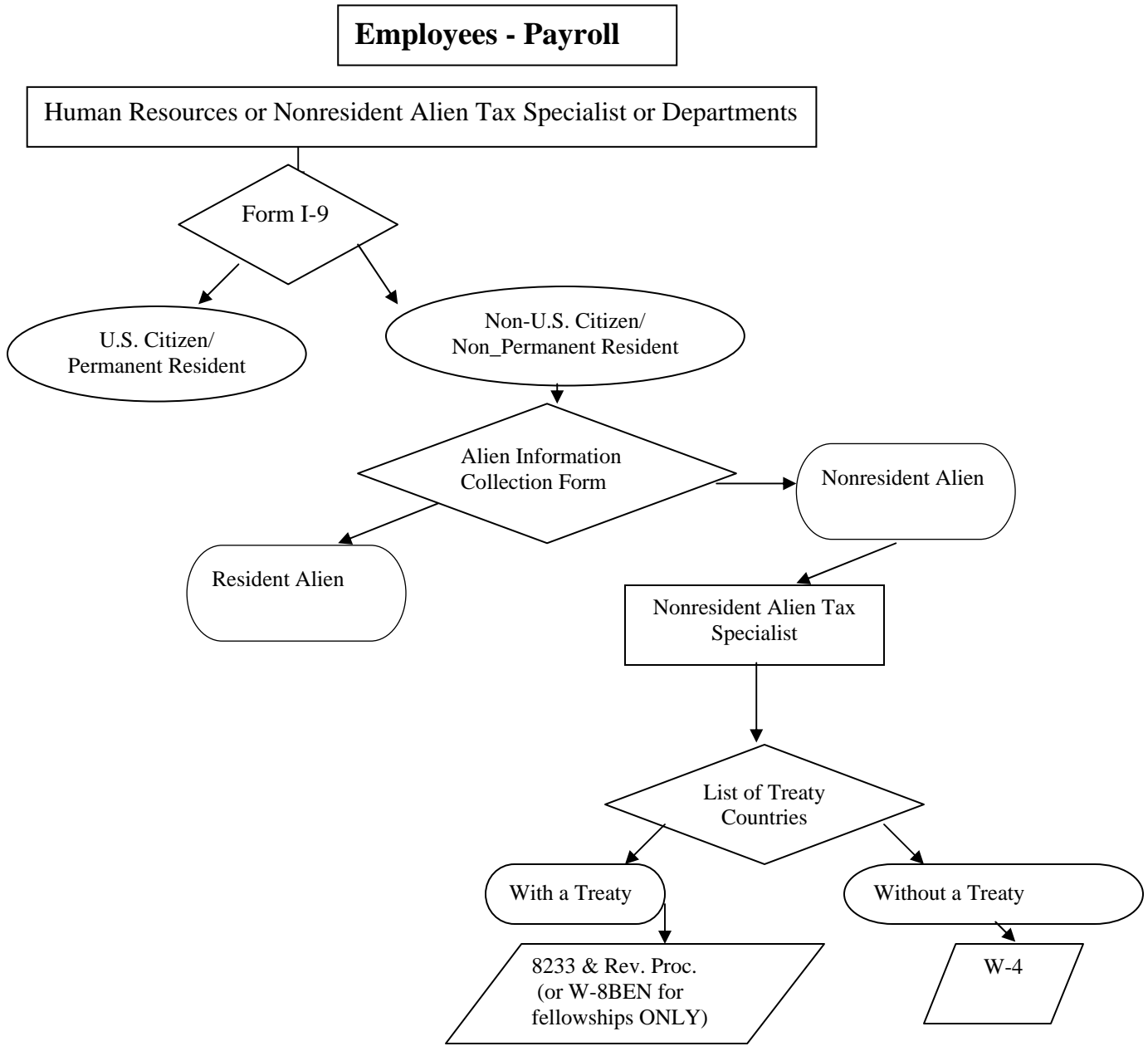
All new employees are required to complete a Form I-9 (Employment Eligibility Form) either in the Human Resource Department, with the Nonresident Alien Tax Specialist, or in the hiring department. Therefore, it is the responsibility of the individual administering the Form I-9 to determine the new employee's US citizen/permanent residency status by following the steps set forth in this section of this manual. Included in the responsibilities of the Nonresident Alien Tax Specialist will be the collection of Form I-9 from new foreign students and scholars. **The hiring department has the responsibility of ensuring that the new employee has completed a Form I-9 with the appropriate individual. If a new employee has already completed a Form I-9 with the Nonresident Alien Tax Specialist, their hiring department should not require that a new Form I-9 be completed.**

The new employee who is a potential nonresident alien must complete the Alien Information Collection Form to determine his or her U.S. residency status for tax purposes. If it is determined that the new employee is a nonresident alien based upon the information contained on the Alien Information Collection Form, the new employee is required to meet with the Nonresident Alien Tax Specialist, Disbursement Operations, to review the form and discuss his or her U.S. tax withholding situation. Failure of the nonresident alien to complete the Alien Information Collection Form or to meet with the Nonresident Alien Tax Specialist will result in the maximum rate of tax withholding. **Any federal tax withheld due to failure to follow these procedures in a timely manner cannot, by IRS regulation, be refunded by the Institute.**

#### *How to Process a Payment through the Payroll System*

- a) The individual in the Human Resource Department or the hiring department responsible for administering the Form I-9 must review the information on the form to determine whether the new employee is a U.S. citizen or permanent resident alien. Please keep in mind that all new employees are required to provide information about their U.S. citizenship/permanent residency status, regardless of whether there is reason to believe that the individual may or may not be a U.S. citizen.
  - b) If the new employee is a U.S. citizen or permanent resident alien, there is no change to current procedures.
  - c) If the new employee completes the question on Form I-9 regarding citizenship status by indicating that he or she is an **“An alien authorized to work until\_\_\_,”** (I.E., he or she is not a U.S. citizen or permanent resident alien), then the new employee must complete an Alien Information Collection Form to determine his or her U.S. residency status for tax purposes.
  - d) After the new employee completes the Alien Information Collection Form:
    - If the individual is a resident alien, the individual should complete Form W-4 in the same manner as a U.S. citizen.
-

- If the individual is a nonresident alien, he or she must meet with the Nonresident Alien Tax Specialist to review the form, discuss the applicable tax withholding status, and complete any additional tax forms.
- e) The Nonresident Alien Tax Specialist will review the nonresident alien’s tax situation to determine whether the individual qualifies for a U.S. tax exemption under an income tax treaty and, if so, assist the individual with the completion of the required forms. If the nonresident alien does not qualify for an income tax treaty exemption, the individual will be required to complete Form W-4 following special instructions.



## **FICA Tax Withholding**

### ***The F, J, M, and Q Visa holder Exception***

A broad FICA tax exemption exists for all nonresident alien F, J, M, and Q visa holders who are performing services to carry out the primary purpose of their visa's issuance. As previously discussed, F, J, M, and Q student visa holders are exempt from counting days of presence in the U.S. under the substantial presence test for five calendar years; J and Q teacher; researcher and trainee visa holders are exempt from counting days for two calendar years. Once such an individual counts 183 days of U.S. presence toward the substantial presence test, he or she is considered a resident alien for that entire calendar year and is subject to FICA tax retroactively to January 1 of that calendar year.

### **FICA Exception for F, J, M and Q Visa Holders**

An individual can be exempt from FICA tax withholding if he or she is:

- (i) *a nonresident alien for tax purposes*
- (ii) *Present in the U.S. under an F, J, M or Q-1 category visa, **and***
- (iii) *Performing services in accordance with the primary purpose of the visa's issuance (i.e., the primary holder of the Visa, the "-1" visa holder.)*

In addition, in order to qualify for the FICA tax exemption, the nonresident alien's work must be "performed to carry out the purpose specified in" the F, J, M, and Q visa. The individual will typically satisfy this requirement by being the primary visa holder (the "-1" visa holder); however, the spouse/dependents (the "-2" visa holders are not eligible for the FICA tax exception.

All FICA tax exemptions will be determined and monitored by the Nonresident Alien Tax Specialist based upon information provided by the individual on the Alien Information Collection Form and the individual's visa documentation. The individual must meet the three specifications as discussed above in order to qualify for the exemption. If the individual's visa expires, documentation of a visa extension must be provided to the Nonresident Alien Tax Specialist; if the necessary documentation is not provided, the FICA exemption will no longer apply.

## **PAYMENTS THROUGH THE ACCOUNTS PAYABLE SYSTEM**

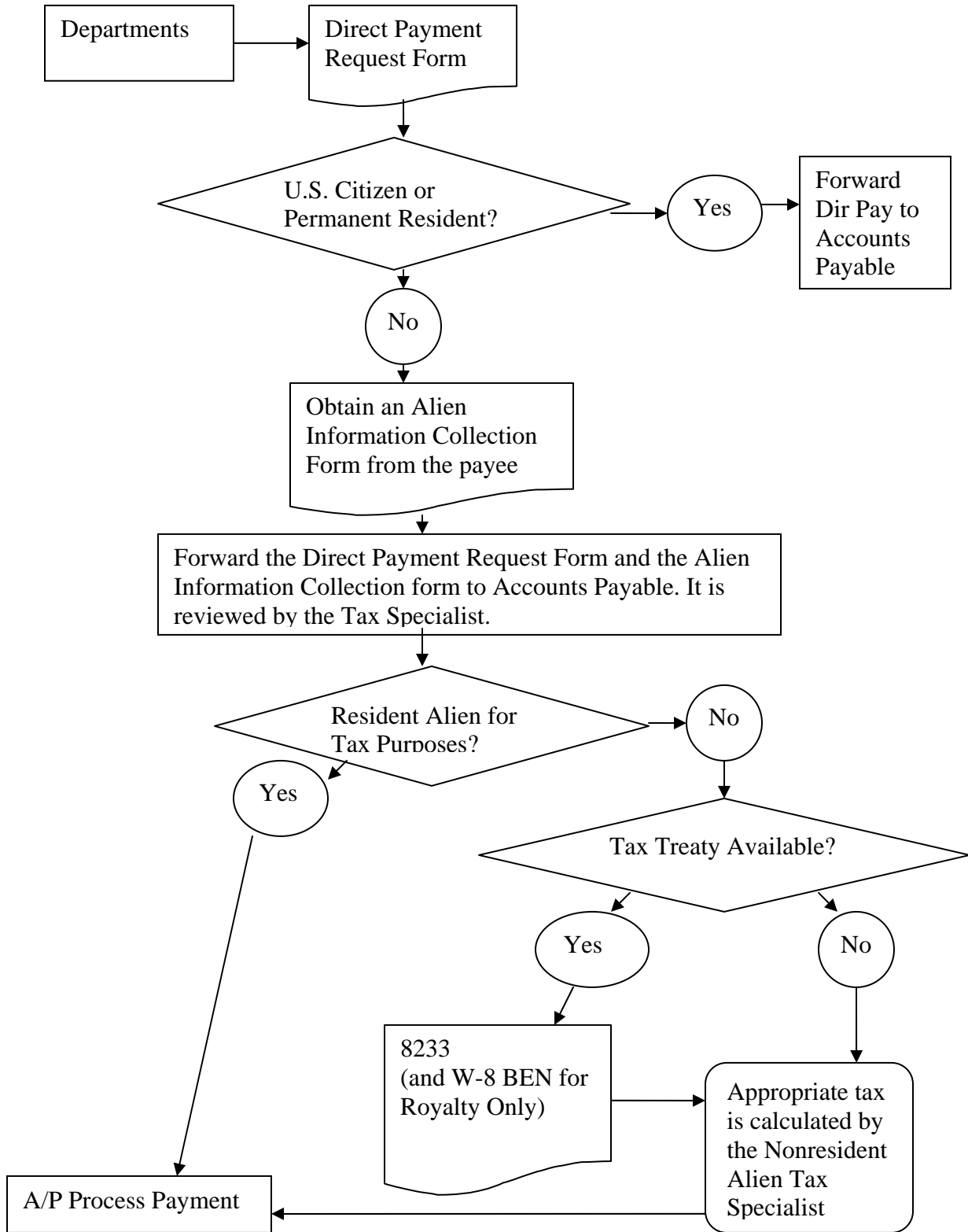
### **Payments Made to Independent Contractors Using a Direct Payment Request Form**

When paying an individual or independent contractor using a Direct Payment Request Form, it is the responsibility of the individual who completes the payment request form to determine whether the payee is a nonresident alien; the question on the form regarding U.S. citizenship must be completed before any payment will be processed by the Accounts Payable Department. Such a determination should be made by asking each payee about his or her U.S. citizenship/permanent residency status. **Any federal tax withheld due to failure to provide the necessary information or required forms cannot, by IRS regulation, be refunded by the Institute.**

### ***How to Process a Payment Using a Direct Payment Request Form***

- 1) The individual who completes the Direct Payment Request form is responsible for determining if the individual is a U.S. citizen or nonresident alien. The form has a question regarding U.S. citizenship/permanent residency status that must be completed. Obtaining an answer to this question fulfills the Institute's responsibility under IRS regulations.
- 2) If the payment is made to a U.S. citizen or permanent resident alien (green-card holder), there is no further action necessary. The payment form, containing the appropriate supporting documentation, should be forwarded to the Accounts Payable Department.
- 3) If the payment is made to a non-U.S. citizen or non-permanent resident alien, the individual must complete an Alien Information Collection Form to determine his or her U.S. residency status for tax purposes.
- 4) If the payment is made to a nonresident alien and the individual is from a country with which the U.S. maintains an income tax treaty (see the chart on page 26), he or she must complete Form 8233 to claim an exemption from tax withholding (Form 8233 and instructions for the form's completion are found in this manual). If the individual is not from a country, with which the U.S. maintains a tax treaty or if the individual does not submit a properly completed Form 8233, tax withholding at a rate of 30 percent will be deducted from the payment.
- 5) All required forms and supporting documentation must be attached to the Direct Payment Request Form and forwarded directly to the Nonresident Alien Tax Specialist, Disbursement Operations, Finance. The Nonresident Alien Tax Specialist will review the payment form and the attached supporting documentation to determine the individual's tax status and to determine whether the individual qualifies for a tax exemption under an income tax treaty. Based upon the information and forms provided, the Nonresident Alien Tax Specialist will calculate and deduct any necessary tax withholding.

## Non Employees – Accounts Payable



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**INSTRUCTIONS**  
**Direct Payment Request**

**PURPOSE:** To initiate payment for the activities listed in section IV.  
**HOW:** Completed form, including supporting documents and approval signatures, then forwarded to Accounts Payable for processing.

I. You **MUST COMPLETE** the citizenship section. You must inquire about the payees' or beneficiaries' citizenship status. Additional reference is available in the manual referenced on the front of this form.

**Gross-Up definition:** Rensselaer is generally required to withhold tax at a 30 percent rate from all income payments made to nonresident aliens. The Nonresident Alien Tax Specialist will calculate and deduct any applicable tax from the payment prior to processing. If a department wishes to pay the tax on behalf of a nonresident alien, the tax payment is considered income and is taxable as well. When paying the tax due on behalf of a nonresident alien, a department should request that the payment be "grossed-up". The Nonresident Alien Tax Specialist will then calculate the applicable tax and deduct it from the department's budget and the payee will receive the net amount requested on the Direct Payment Request.

The Nonresident Alien Tax Specialist will calculate any taxes that may be applicable. Please allow **15 days** for payments made to any nonresident alien who claims a tax treaty exemption.

II. To pay a business: list Federal ID Number.  
To pay an individual: list Social Security #, and the name and address to be printed on the check.

III. Please pay only one invoice per form.

IV. Commodities permitted to be paid on Direct Payment Request form are limited to the following:

96153	Advertising	96286	Express Mail/Freight
96100	Awards/Prizes	96200	Fees
71510	Books	96100	Honorariums
96299	Business Dinners/Lunches	96200	Memberships/Dues
92460	Conference Registration	96286	Postage
REIMB	Employee Reimbursement	71500	Reprints
	(Not Travel)	95660	Subscriptions

**FOAPAL**

<b>Fund</b>	Funding source (6 char)
<b>Organization</b>	Organization code (4 char)
<b>Account</b>	Expense or revenue code (3 char)
<b>Program</b>	Required
<b>Activity</b>	Required
<b>Location</b>	Optional/campus location

V. Approvals — Obtain prior to sending to Accounts Payable

Completed requests for **certified vendors** will be processed within 5 (five) business days of receipt by Account Payable.

## **Payments Made To Non-Employees Using a Travel Reimbursement/Advance Form**

When making payments to a non-employee through the Accounts Payable Department using a Travel Reimbursement/ Advance Form, it is the responsibility of the individual who completes the payment form to determine whether the payee is a nonresident alien. Such a determination should be made by asking each payee about his or her U.S. citizenship/permanent residency status.

If the steps set forth below are not followed by the individual completing the Travel Reimbursement/Advance Form, the payment will not be processed. Also, if the necessary forms are not completed by the payee or the true beneficiary and attached to the Travel Reimbursement/Advance Form, the maximum rate of tax will be withheld from the payment. **Any federal tax withheld due to failure to provide the necessary information or required forms cannot, by IRS regulation, be refunded by the Institute.**

### ***How to Process a Payment Using a Travel and Reimbursement/Advance Form***

1. The individual who completes the Travel Reimbursement/Advance Form is responsible for determining whether the payee is a nonresident alien.
2. If the payment is made to or on the behalf of a U.S. citizen or non-permanent resident alien (green-card holder), there is no further action necessary.
3. If the payment is made to or on the behalf of a non-U.S. citizen or non-permanent resident alien; and the individual is NOT an employee of Rensselaer, then the individual must complete an Alien Information Collection Form to determine his/her U.S. residency status for tax purposes and potential tax withholding. The Travel Reimbursement / Advance Form, containing the appropriate attachments and supporting documentation, should be forwarded to the Accounts Payable Department for payment processing.
4. All required forms and supporting documentation must be attached to the Travel Reimbursement/Advance Form and forwarded directly to the Nonresident Alien Tax Specialist Disbursement Operations.
5. The Nonresident Alien Tax Specialist will review the Travel Reimbursement/Advance Form and any attached documentation to determine the individual's U.S. Tax status and whether the individual qualifies for a tax exemption under an income tax treaty. Based upon the information and forms provided, the Nonresident Alien Tax Specialist will calculate and deduct any necessary tax withholding from the payment.

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## Travel Reimbursement/Advance Request Form

**MUST BE COMPLETED BY ALL NON-EMPLOYEES (Students traveling on Rensselaer business should be treated as employees)**

A/P USE ONLY

Is the payee a US Citizen or permanent resident alien? Yes \_\_\_\_\_ No \_\_\_\_\_, \_\_\_\_\_  
 If No, \_\_\_\_\_ Country of Origin  
 Gross-up? Yes \_\_\_\_\_ No \_\_\_\_\_ (See reverse for Gross-up definition)

Name of Dept. Contact \_\_\_\_\_ Name of Traveler \_\_\_\_\_

Phone Number of Dept. Contact \_\_\_\_\_ Address of Traveler \_\_\_\_\_

Dates of Travel/Event \_\_\_\_\_ Destination \_\_\_\_\_ ID #: \_\_\_\_\_

Purpose/Sponsor \_\_\_\_\_ Amount Requested for Advance \$ \_\_\_\_\_

Date	Transportation			Lodging	Meals**			Other	Total	→	Travel Expense Accounting Data		
	Commercial	Mileage	Amount		Breakfast	Lunch	Dinner				<b>Total Expense</b>	\$	
<b>Total</b>											→	Bal. Due Traveler	\$
												Bal. Due Univ.	\$

**Other Explanations (\*\*Requires Guest Name and Purpose)**


**Account Expense Distribution (Total Expenses)**

Fund	Org.	Account	Program	Activity	Amount

Requester Sig. \_\_\_\_\_ Date \_\_\_\_\_ Supervisor Sig. \_\_\_\_\_ Date \_\_\_\_\_ Funding Authorized Sig. \_\_\_\_\_ Date \_\_\_\_\_ Contr. & Grants Appr. \_\_\_\_\_ Date \_\_\_\_\_

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## Payments To Performers and Their Agents

Payments made to agents for performers follow a unique set of IRS regulations.

*Treasury Regulation Section 1.1441-1(b)(ii) Payments to a U.S. agent of a foreign person. A withholding agent making a payment to a U.S. person (other than to a U.S. branch that is treated as a U.S. person pursuant to paragraph (b) (2) (iv) of this section) and who has actual knowledge that the U.S. person receives the payment as an agent of a foreign person must treat the payment as made to the foreign person. However, the withholding agent may treat the payment as made to the U.S. person if the U.S. person is a financial institution and the withholding agent has no reason to believe that the financial institution will not comply with its obligation to withhold.*

If Rensselaer is paying an agent of a performer (U.S. or Foreign agent) it is Rensselaer's responsibility to determine if the performer is a U.S. citizen or permanent resident. If the performer is not a U.S. citizen or permanent resident of the U.S., Rensselaer is responsible for gathering information about the performer and tax the payments made to the agent as if the payment is being made to the performer.

Some athletes or performers may enter the U.S. with a **Central Withholding Agreement** issued by the IRS. The athlete or performer presents the dates they will be in the U.S. to the IRS. The gross revenue less expenditures is calculated and the two parties agree on a withholding percent. If this document is presented to Rensselaer it should be provided to the Nonresident Alien Tax Specialist, Disbursement Operations so we withhold appropriate taxes.

All payments made to performers or agents will be taxed at 30% unless a treaty exemption applies and appropriate forms have been completed and filed with the Nonresident Alien Tax Specialist, Disbursement Operations. Follow the instructions in this manual for ***How to Process a Payment Using a Direct Payment Request Form.***

This particular part of the IRS tax law is very unique in that this is the only area in which Rensselaer would ever withhold tax from a payment to a U.S. company (agent).

## INCOME TAX TREATIES

### What Is an Income Tax Treaty?

The United States maintains bilateral income tax treaties with approximately 63 different countries in an effort to reduce or eliminate double taxation. It is important to note that each individual tax treaty is unique and may not contain the same provisions, exemptions, etc. as another tax treaty. Please note that certain annual dollar and/or time limits may also apply.

While income tax treaties are, for the most part, designed to facilitate commercial trade and the flow of capital between the two countries, all treaties also contain provisions (referred to as “articles”), which generally provide for a partial or complete tax exemption for scholarship/fellowship grants and for compensation payments received by students, trainees, teachers, researchers, and independent contractors. The Nonresident Alien Tax Specialist will make all tax treaty exemption determinations based upon information provided by the individual on the Alien Information Collection Form and/or during an individual meeting. All employees who are eligible for a tax treaty exemption must schedule an appointment to discuss with the Nonresident Alien Tax Specialist the qualifications for exemption and complete all required tax treaty exemption forms.

### U.S. Income Tax Treaties Currently in Force

#### Country

Australia	Ireland	Portugal
Austria	Israel	Romania
Barbados	Italy	Russia
Belgium	Jamaica	Slovak Republic
Canada	Japan	Slovenia
China, PRC	Kazakhstan	South Africa
Cyprus	Korea	Spain
Czeck Republic	Latvia	Sri Lanka
Denmark	Lithuania	Sweden
Egypt	Luxembourg	Switzerland
Finland	Mexico	Thailand
France	Morocco	Trinidad & Tobago
Germany	Netherlands	Tunisia
Greece	New Zealand	Turkey
Hungary	Norway	Ukraine
Iceland	Pakistan	U.S.S.R
India	Philippines	United Kingdom
Indonesia	Poland	Venezuela

The former US - USSR treaty applies to certain members of the Commonwealth of Independent States and Georgia, which includes Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan and Uzbekistan. The tax treaty does not apply to the Baltic States of Estonia, Latvia and Lithuania or to Kazakhstan or Russia or Ukraine.

### **Forms Required For Exemption Under An Income Tax Treaty**

If the Nonresident Alien Tax Specialist determines that an individual qualifies for a tax treaty exemption, the Institute may exempt from U.S. tax withholding a portion or all of the payment made to an individual but only if the individual qualifies for the exemption and completes an exemption form. If the required exemption form is not completed, the Institute is required to withhold tax even though the individual may otherwise qualify for the tax treaty exemption. If the individual does not file the exemption form at the time of payment, he or she can still claim the benefits of the tax treaty by claiming the exemption when filing his or her income tax return. The form used to claim the tax withholding exemption is determined by the type of income received; individuals who receive several types of income may be required to file different forms.

Form 8233 (Exemption from Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual)

Form 8233 is used to claim a tax treaty based exemption from federal tax withholding on income received for personal services (i.e., wages, salary or compensation). Form 8233 must be filed by (i) all students, trainees, teachers, researchers, and individuals performing dependent personal services (i.e., services as an employee), and (ii) individuals performing independent personal services (i.e., independent contractors and honoraria).

Form 8233 is valid only for the calendar year in which it is filed; the form must be re filed for each year that the exemption is claimed. The Nonresident Alien Tax Specialist will mail Forms 8233 in early November to all current employees who are eligible to continue to claim a tax treaty exemption. The exemption from withholding becomes effective for payments made to an individual 10 days after the date on which the Nonresident Alien Tax Specialist files the Form 8233 with the IRS.

Employees who claim a tax treaty exemption for compensation income are required to provide an additional statement detailing the specifics of the exemption claimed; there is no additional statement required for non-employees (i.e., independent contractors and honoraria). Employees must initially complete Form 8233 and the required additional statement with the Nonresident Alien Tax Specialist, Disbursement Operations.

## **CLAIMING AN INCOME TAX TREATY EXEMPTION**

### **How to Complete Form 8233**

- 1) Name of Beneficial Owner: Enter the name of individual claiming the tax treaty exemption.
- 2) U.S. Taxpayer Identification Number: Enter social security number or ITIN
- 3) Foreign Tax Identifying Number: Enter foreign taxpayer number, if any.
- 4) Permanent Residence Address: Enter permanent address in country of permanent residence and name of home country
- 5.) U.S. Address: Enter the individual address while in the U.S.; if the individual will only be in the U.S. for a few days, enter the address of the payor.
- 6.) U.S. Visa Type: Enter U.S. visa type.
- 7a) Country issuing passport: Enter country issuing passport
- 7 b) Passport number: Enter passport number
- 8.) Date of Entry into the United States: Enter the date on which the individual first entered the U.S. for purposes of this visit.
- 9a) Current nonimmigrant status: Enter current status: (student/researcher)
- 9b) Date Current Nonimmigrant Status Expires: Enter the date on which the current status expires. This date can generally be found on Form 1-94 or Forms 1-20 (F visas) / D 2019 (J visas).
- 10.) Check Box: If a student, trainee, professor or researcher, place an “X” in the box and attach the required statement.
- 11a.) Description of Services: Describe the type of services that the trainee is providing
- 11b.) Indicate the trainee’s total compensation for these Tax Treaty Exemptions
- 12a) Indicate the tax treaty country and the tax treaty article
- 12b) Amount of exempt compensation income
- 12c) Trainee’s country of permanent residence.

Part III Signature of beneficial owner (or individual authorized to sign for beneficial owner) and date.

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

OMB No. 1545-0795

- See separate instructions.

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

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

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

1 Name of individual who is the beneficial owner	2 U.S. taxpayer identifying number	3 Foreign tax identifying number, if any (optional)
4 Permanent residence address (street, apt. or suite no., or rural route). Do not use a P.O. box.		
City or town, state or province. Include postal code where appropriate.		Country (do not abbreviate)
5 Address in the United States (street, apt. or suite no., or rural route). Do not use a P.O. box.		
City or town, state, and ZIP code		
<b>Note:</b> Citizens of Canada or Mexico are not required to complete lines 7a and 7b.		
6 U.S. visa type	7a Country issuing passport	7b Passport number
8 Date of entry into the United States	9a Current nonimmigrant status	9b Date your current nonimmigrant status expires

10 If you are a foreign student, trainee, professor/teacher, or researcher, check this box

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

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

a Description of personal services you are providing \_\_\_\_\_  
\_\_\_\_\_

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

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

a Tax treaty and treaty article on which you are basing exemption from withholding \_\_\_\_\_

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

c Country of permanent residence \_\_\_\_\_

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

13 Noncompensatory scholarship or fellowship income:

a Amount \$ \_\_\_\_\_

b Tax treaty and treaty article on which you are basing exemption from withholding \_\_\_\_\_

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

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

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

15 Number of personal exemptions claimed ~

16 How many days will you perform services in the United States during this tax year? ~

17 Daily personal exemption amount claimed (see instructions) ~

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

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

- I am the beneficial owner (or am authorized to sign for the beneficial owner) of all the income to which this form relates.
- The beneficial owner is not a U.S. person.

**Part III Certification**

- The beneficial owner is a resident of the treaty country listed on line 12a and/or 13b above within the meaning of the income tax treaty between the United States and that country.
  - The beneficial owner is not a former citizen or long-term resident of the United States subject to section 877 (relating to certain acts of expatriation) or, if subject to section 877, the beneficial owner is nevertheless entitled to treaty benefits with respect to the amounts received.
- Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

Sign Here



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

Date

**Part IV Withholding Agent Acceptance and Certification**

Name

Employer identification number

Address (number and street) (Include apt. or suite no. or P.O. box, if applicable.)

City, State, and Zip Code Number

Telephone

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

Date \_\_\_\_\_

## **Payments Made to Nonresident Aliens**

### **Letter of Tax Information for Nonresident Alien Students**

#### **U.S. TAX INFORMATION FOR NONRESIDENT ALIEN STUDENTS**

The Internal Revenue Service (IRS), the U.S. government tax authority, has issued strict regulations regarding the taxation and reporting of payments made to non-United States citizens. As a result, Rensselaer may be required to withhold U.S. income tax and file reports with the IRS in connection with payments made by Rensselaer to students who are not U.S. citizens or permanent resident aliens (green-card holders) and who receive financial aid, scholarships, fellowships, or compensation for services performed.

Rensselaer must determine whether you will be treated as a resident alien or a nonresident alien for U.S. tax purposes. Students present in the U.S. on F-1 or J-1 visas are usually considered to be nonresident aliens for the first five calendar years that they are present in the U.S. Rensselaer is generally required to withhold taxes from all payments made to nonresident aliens. In order for Rensselaer to make this determination, you must complete the Alien Information Collection Form and submit it to the Nonresident Alien Tax Specialist in Disbursement Operations. In addition, Rensselaer is required by law to report to the IRS all payments made to a nonresident alien, or a third party on his or her behalf, regardless of whether the payment is subject to U.S. tax.

Nontaxable items consist of the following:

- Tuition
- Books and Supplies Allowance
- Required Registration Fees
- Mandatory Medical Insurance

Taxable items include, but are not limited to, the following:

- Room and Board
- Fellowship (which does not require a service to be performed)
- Living Allowance
- Cash Award
- Compensation (including a fellowship that requires a service to be performed)

The U.S. maintains income tax treaties with approximately 63 different countries, and certain taxable payments made by Rensselaer to you may be exempt from U.S. tax based on an income tax treaty entered into between the U.S. and your home country. The existence of a tax treaty does not automatically ensure an exemption from taxation; rather, you must satisfy the requirements for the exemption set forth in the treaty. To be considered for a tax treaty exemption, you must complete Form W-8BEN (for all scholarship or fellowship payments) and/or Form 8233 (for all compensation payments). Form W-8BEN and Form 8233 may be completed in Disbursement Operations.

For fellowship payments a 14 percent withholding tax will be deducted from taxable payments made to students present in the U.S. under an F or J visa who are from countries which do not maintain a tax treaty with the U.S. or whose payment does not qualify for exemption under a tax treaty.

If you receive a scholarship or fellowship grant, certain portions of the grant (for example, tuition and required fees) will not be paid directly to you, but will be credited to your student account at Rensselaer. If the portion credited to your account is a nontaxable item (for example, tuition), there will be no tax impact to you. If, however, the portion credited to your student account is a taxable item (for example, room and board), you will be required to pay to Rensselaer the amount of the tax that is required to be withheld, generally, 14% of the amount involved.

Compensation payments made to a nonresident alien for services performed as an Institute employee are paid through the Payroll Department. U.S. tax is withheld on this type of payment at a specific graduated tax withholding rate. With respect to compensation paid to a nonresident alien as part of a fellowship grant, income tax treaties may or may not exempt some or all of the compensation, and any tax withholding associated with the taxable compensation will be automatically deducted from the payments.

All students who are not citizens or permanent resident aliens of the U.S. are required to complete tax information forms at a mandatory foreign student orientation during their first week at Rensselaer prior to receiving any payments or financial assistance. If you have additional questions about how to complete the required forms or need information concerning tax withholding obligations, please contact the Nonresident Alien Tax Specialist, Disbursement Operations 276-8696.

### **Questions or How To Obtain More Information**

All questions concerning payments made to a nonresident alien, including income tax treaty exemptions, and federal or FICA tax withholding for nonresident aliens, regardless of type of payment or payment method, should be directed to the Nonresident Alien Tax Specialist, Disbursement Operations 276-2385 or [sawyej@rpi.edu](mailto:sawyej@rpi.edu).

All questions concerning visa types in general or the visa type for a particular individual should be directed to the International Student Services Office, Jane Havis, Assistant Dean of Students, 276-6561, e-mail: [havisj@rpi.edu](mailto:havisj@rpi.edu).