

UNC Wilmington

**Foreign National Tax Procedures Guide
for Departments**

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Introduction

This guide will help departments through the process of bringing a foreign national to campus and making payments to a foreign national. It will also detail the rules that UNCW operates under, based on the tax and immigration laws of the United States. For an overview of bringing in a foreign national to campus, refer to the section titled, “Process for Bringing a Foreign National to UNCW – High Level.” To gain more specifics about the process based on the income type paid and to learn more about the tax and immigration laws pertaining to the category of income, refer to the section titled, “Specific Procedures, Tax and Immigration Overview Pertaining to Income Type Paid.” To learn more about how to pay taxes on behalf of the foreign national, refer to the section titled, “Departments Paying Taxes on Behalf of Foreign National.”

Process for Bringing a Foreign National to UNCW – High Level

Bringing foreign nationals to our campus, which supports UNCW's strategic goals, is a great opportunity to enhance the diversity of our university as well as bring that same diversity to our students. However, there are many processes that need to be considered before inviting the foreign national to UNCW; what is their visa status if applicable, are they eligible for the visa waiver program, should they be an independent contractor or employee, is a contract needed, and most importantly what are the tax implications for the individual as well as the university?

These are just some of the questions that need to be addressed before an invitation is even sent to a foreign national to visit, teach or perform at UNCW. It is imperative that departments at UNCW do not initiate the process of bringing a foreign national to the university without researching the process first.

Step 1

First, faculty and staff need to answer the questions below.

1. Who would you like to bring to the university and what would you like them to do once they are here?
2. What is their country of origin?
3. Will they teach, lecture or perform?
4. How much will your department budget allow you to pay the foreign national for their services or visit?
5. How long will they be staying in the United States?
6. Will they need housing, a rental car, food provided, etc?
7. Does your foreign national need to be sponsored by UNCW?

Step 2

Contact the following departments before proceeding any further:

- International Programs – Jennifer Fernandez-Villa, Director of International Student and Scholar Services – 910-962-3685 or fernandezvillaj@uncw.edu.
 - Contact to discuss visa options if UNCW is going to sponsor the visitor
- Tax Compliance Department – Lisa Eakins, Tax Accountant – 910-962-2757 or eakinsl@uncw.edu.
 - Must be contacted if any kind of payment, including food and lodging, is being made to or on behalf of the visitor

The hosting department or faculty member bears the primary responsibility for ensuring that the foreign national visitor acquires the correct visa (or has the correct visa) so that the individual is in compliance with all necessary tax and immigration laws. Departments must ensure that no payments are made to a foreign national unless he/she has been granted the appropriate authorization and visa status in advance of their arrival to campus.

Step 3

After you have contacted the appropriate departments listed above, informed them of your desire to invite a foreign national to campus, and provided them the answers to the seven questions, one of the departments will advise you on how to effectively and efficiently invite your foreign national to UNCW in compliance with the tax and immigration laws.

Tax Residency and Withholding Overview

Tax Residency

The Internal Revenue Service and the U.S. Citizenship and Immigration Services use the word “alien” instead of “foreign national.”

For U.S. tax purposes there are four categories of individuals:

1. U.S. Citizen
2. Permanent resident alien (i.e., “green card holders”) – taxed like a U.S. Citizen
3. Resident alien (RA) - taxed like a U.S. Citizen
 - An alien is classified as a resident alien for tax purposes if they were physically present in the U.S. for 31 days during the current year and 183

days during a three-year period that includes the current year and the preceding two years.

4. Nonresident alien (NRA)

- A person who is not a U.S. Citizen and who does not meet either the “green card” test or the “substantial presence” test.
- Taxed depending on his/her **reason** for being in the U.S.

Tax Withholding

Permanent residents (green card holders) and resident aliens are taxed like U.S. Citizens.

Nonresident aliens are taxed only on their income from sources **within** the U.S. and on certain income connected with the conduct of a trade or business in the U.S.

If the services provided by the nonresident alien are performed in the U.S., then it is considered income from U. S. sources and subject to withholding taxes and reporting to the IRS. If the services provided by the nonresident alien were performed outside the U.S., then it is not considered income from U. S. sources and is not subject to withholding taxes or IRS reporting. The location where the services are performed determines the source of the income. It does not matter where the contract was made, the place of payment, or the residence of the payer.

Nonresident aliens are taxed on earnings received while living and working in the U.S.

Nonresident aliens, depending on visa type, are exempt from FICA (Social Security tax and Medicare), for example visa type F-1 and J-1. If the visa type is F-1 or J-1, the nonresident alien may be exempt from federal taxes, this would apply only if the country the alien lived in immediately before arriving in the U.S. has negotiated an [income tax treaty](#) with the U.S. government.

Since there is a different tax structure for a nonresident alien compared to a resident alien, it is important to be sure to have individuals classified correctly. A nonresident alien, for tax purposes, may qualify for some tax relief through a tax treaty benefit, if one exists with the individual’s home country. Generally, a resident alien cannot qualify for a tax treaty benefit for tax purposes; they are taxed on their worldwide income.

Nonresident aliens must pay the correct tax to the U.S. government on any income they earn during their stay. Failure to pay the correct tax may result in an unexpected tax obligation when the individual leaves the U.S. and may jeopardize a future application for residency.

Additionally, UNCW is liable for any tax not withheld plus associated fines and penalties. Any taxes, fines or penalties assessed by the IRS will be charged to the UNCW department who invited the nonresident alien to campus.

Nonresident Alien (NRA) Federal Tax Withholding

Federal withholding rates for nonresident aliens are:

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

Additional state withholding tax will be at the standard graduation rate for employees and 4% for independent personal services that involve payment in excess of \$1,500. If payments are exempt from federal tax under a tax treaty, then the payments are also exempt from NC taxes.

Specific Procedures, Tax and Immigration Overview Pertaining to Income Type Paid

Employees

All permanent, temporary and student employees are paid wages through the UNCW payroll office. The hiring process is initiated by the department.

Permanent Employee

Human Resources (HR) will enter the pay assignment for permanent SHRA staff, EHRA staff and faculty employees directly into Banner after they receive the hiring information from the department. HR also processes the I-9/E-verify.

Temporary Employee

HR sets up (assigns a Banner number) for all new temporary hires, after receiving the “update request” through EPAF, the I-9, E-verify and background check, if needed, from the hiring department. HR then notifies the department that the employee is active and that the department can enter the pay assignment through EPAF. After all approvals are obtained through EPAF, the pay action posts to Banner overnight.

Student Employee

The hiring department will post and set up pay assignments for student employees through EPAF. HR is responsible for the I-9, E-verify and background check, if needed.

Once the hiring process is complete, HR or the hiring department (depending on the type of employee hired) is responsible for contacting the Tax Accountant before the employee begins work.

The Tax Accountant will request that the foreign national complete the Foreign National Information Form. This form will be used to determine whether the foreign national is a resident or nonresident alien for tax purposes. This form also provides information to ensure proper tax withholding and reporting. The following will also need to be provided to the Tax Accountant during the tax assessment.

1. Visa
2. Passport
3. Social Security Card or letter from the Social Security Administration that proves application
4. I-94
5. I-797B
6. Letter from the UNCW hiring department with the salary and position listed
7. Local Address
8. Phone Number
9. Email Address
10. Foreign Address

The tax assessment includes the substantial presence test and the completion of tax and payroll documents. The following forms are computer generated and should be completed during the tax assessment.

1. [Form W-8BEN](#) – Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)
2. [Form W-4](#) – Employees' Withholding Allowance Certificate (Federal tax withholding)
3. [Form NC-4](#) - Employee's Withholding Allowance Certificate (State – Used for U.S. Citizens and resident aliens) Used as the basis for calculating state income tax withholding from pay.)
4. [NC-4 NRA](#) – Nonresident Alien Employee's Withholding Allowance Certificate – (NC tax withholding for a nonresident alien)

5. [Form 8233](#) – Exemption From Withholding on Compensation for Independent (and certain dependent) personal services of a Nonresident Alien Individual
- If a nonresident alien wants to claim a treaty benefit exemption from withholding, or reduced withholding of taxes, if permitted by the tax treaty with their country, this form must be completed. A valid U.S. Social Security number or a U.S. individual taxpayer identification number (ITIN) is required to use this form for a tax withholding treaty exemption. Without form 8233 filed, all required taxes must be withheld from all payments.

If the nonresident alien holds an F-1 or J-1 student visa, the student:

- Must be cleared by the Office of International Programs to work at UNCW.
- Must obtain an official Social Security number from the Social Security Administration as soon as possible. (International Programs will assist the nonresident alien with completion of Form SS-5.)
- Nonresident alien's payroll check cannot be direct deposited until the nonresident alien has an official Social Security number.
- Nonresident alien is subject to federal and state income taxes, but **exempt** from FICA & Medicare for the first five taxable (calendar) years.

If the nonresident alien holds an H-1B, O-1 or TN visa, the alien:

- Must be cleared by the Office of International Programs to work at UNCW.
- Must obtain an official social security number from the Social Security Administration as soon as possible. (International Programs will assist the nonresident alien with completion of Form SS-5.)
- Nonresident alien's payroll check cannot be direct deposited until the nonresident alien has an official Social Security number.
- Nonresident alien is subject to federal and state income taxes, as well as FICA and Medicare.

Foreign National employee travel is processed in the same way as U.S. Citizen Employee travel. Employee travel authorization and requests for reimbursement should be processed in [Chrome River](#).

Independent Personal Services (Independent contractor and honorarium payment)

The hiring department must contact International Programs and the Tax Compliance Department prior to bringing an Independent Contractor to campus. If the department plans to pay an honorarium to a B visa or visa waiver holder, then only the Tax Compliance Office needs to be contacted. The process involved with bringing a foreign national to campus to perform

independent personal services needs to occur at least 60 to 90 days before the visitor arrives on campus.

Independent Contractor

Foreign nationals may perform independent personal services for the University as independent contractors if the determination has been made by HR that they should not be hired as an employee.

Independent contractors that are classified as resident aliens are taxed in the same manner as U.S. Citizens. Their payments are not subject to federal income tax withholding and payments are reported to the individual on IRS tax reporting Form 1099-NEC.

Independent contractors that are nonresident aliens are generally subject to a 30% federal tax withholding rate unless a tax treaty benefit applies. The nonresident alien will also be subject to a NC 4% withholding tax on any payment over \$1,500, if applicable. Payments to nonresident alien independent contractors are reported on IRS Form 1042-S.

The following is a list of information that the Tax Compliance office will request from the independent contractor to determine the correct taxation of the payment.

- Foreign National Information Form
- Invitation Letter
- Copies of the I-94, if applicable, passport photo page, passport expiration page (if not on photo page)
- [IRS Form W-8BEN](#)
- Photocopy of SSN or ITIN
- Complete and routed [Purchasing Form PUR 1.40](#) through uShop
- [IRS Form 8233](#), if applicable, for treaty benefits
- NOTE: A valid U.S. Social Security number or ITIN number is required to qualify for tax treaty benefits, no exceptions. No SS#/ITIN, no tax treaty benefits (see [IRS publication 519](#))

Honorarium

Payment for independent personal services also includes honoraria to visiting teachers, guest lecturers, and researchers. An honorarium is a payment that can be of any dollar amount and is typically a fee paid to an international scholar/speaker who meets the following conditions:

- Honorarium must be given for “a usual academic activity or activities”
 - **“Usual academic activities”** according to the proposed regulations, has a broad definition which includes lecturing, teaching and sharing knowledge, master classes, readings, performances, and meeting of boards or committees that

benefit the institution. There are limitations in place on the commercial nature of events such as performances. In order for an activity to be a “usual academic activity,” the event must be open to students and/or the general public and be free of charge with no sale of general admission tickets.

- Visit to UNCW campus is equal to or less than 9 days AND the international speaker/scholar to whom the honorarium is paid must not have accepted payment or expenses from more than 5 institutions or organizations in the previous 6 month period (9/5/6 Rule).
- Visitor is on a B or VWB visa waiver (Canadian visitors – passport only)
- NOTE: Honorarium payments are subject to a 30% federal income tax withholding or 34% if the payment is greater than \$1,500 (NC 4% withholding tax).

Following is a [list of documents](#) the Tax Compliance Department will request from the scholar/speaker to determine the correct taxation of the honorarium payment.

- [Compliance Statement](#), 9/5/6 Rule
- Invitation Letter
- Copies of the I-94, if applicable, passport photo page, passport expiration page (if not on photo page), B1 or B2 visa, if applicable.
- [IRS Form W-8BEN](#)
- Photocopy of SSN or ITIN
- Complete and routed [Purchasing Form PUR 1.40](#) through uShop
- [IRS Form 8233](#), if applicable, for treaty benefits
- NOTE: A valid U.S. Social Security number or ITIN number is required to qualify for tax treaty benefits, no exceptions. No SS#/ITIN, no tax treaty benefits (see [IRS publication 519](#), pg. 8)

Travel

Generally, a nonresident alien can be reimbursed for travel expenses if the payments are made under the IRS’s accountable plan (in accordance with UNCW’s travel policy) and are for business purposes. The nonresident alien will need to submit all original travel receipts, (i.e. airline tickets, train tickets, food receipts, etc.) or they will not be reimbursed. Most payments for travel expenses are not reportable to the IRS and are not subject to nonresident alien withholding taxes. We may not be paying the nonresident alien an honorarium; however, they must qualify to receive an honorarium in order to receive a travel reimbursement if they are on any visa type other than B-1 or B-2.

How do I process an Independent Contractors Travel? (This is the same process for honoraria recipients) – All Independent Contractors travel must be processed through Chrome River. <https://uncw.edu/travel/independentcontractor/proceduresforindependentcontractor.html>

Scholarship or Fellowship Grant

Overview: Per Treasury Regulation section 1.117-3 (a), a scholarship is defined as “an amount paid for the benefit of the student whether an undergraduate or graduate, to aid such individual in pursuing his studies.” Per Treasury Regulation section 1.117-3(c), a fellowship is defined as “an amount paid or allowed to, or for the benefit of, an individual to aid him in the pursuit of study or research.” Services are **not** required for these types of payments. There are two types of scholarships and fellowships, qualified and nonqualified. Qualified scholarships and fellowships are amounts that directly pay for tuition, required fees, books, and required equipment for classes.

Qualified scholarships and fellowships are exempt from taxes. Nonqualified scholarships and fellowships are amounts for room and board, personal equipment, living expenses, optional fees and other expenses not required either for enrollment or attendance at UNCW.

Nonqualified scholarships and fellowships are subject to 14% tax withholding (for F, J, M & Q student visa holders), unless exempt from tax because of a tax treaty. All other visa holders given a scholarship or fellowship payment are subject to 30% tax withholding. FICA taxes are not withheld and income is reported on a 1042-S to the recipient at the end of the calendar year.

Payment and Reporting of a Fellowship/Scholarship: The Tax Accountant must be notified when paying a scholarship/fellowship to a foreign national. The Tax Accountant will then reach out via email to the foreign national to perform a tax assessment.

The following tax and immigration documents will be requested from the foreign national student.

- Copy of applicable documents (visa, passport, SS card or ITIN, DS2019 or I20, I94)
- Foreign National Information Form
- [IRS Form W-8BEN](#)

The Tax Accountant will use these documents to run a substantial presence test (SPT) and to perform a treaty analysis. The software used by the Tax Accountant to perform the analysis will produce the necessary tax documents that the student must sign. The W-8BEN is a form that must be signed. It shows that the student has a closer connection to their country of residence and that they are eligible for treaty benefits. No treaty benefits are allowed if the foreign national student does not have a valid U.S. Social Security number or ITIN number. Students with nonqualified (taxable) scholarships will receive a 1042-S form at the end of the calendar year.

Royalties

Overview: Royalties are passive income received for the use of intangible goods. They are “sourced” for the purpose of taxation based on the location where the royalty is exercised. For example, if UNCW purchased a piece of literature from an individual in another country, but included the literature in one of our books sold in the U.S. then the royalty payment is sourced to the U.S. and taxes must be withheld. For software royalties, the royalty is sourced to where the software is loaded. The federal tax withholding rate is 30% on royalties.

Payment and Reporting of Royalty: The Tax Accountant must be notified of all royalty payments and will request that the vendor either complete Form W-8BEN (individual) or W-BEN-E (entity). Tax reporting form 1042-S will be submitted to the vendor at the end of the calendar year.

Awards/Prizes

Overview: If a payment that is made to a vendor is based on an accomplishment of a past activity, then it is a prize or award. Awards and prizes are “sourced” for the purpose of taxation to the payer of the prize. The federal tax withholding rate is 30% on awards/prizes.

Payment and Reporting of Awards/Prizes: The Tax Accountant must be notified and will request that the nonresident alien either complete Form W-8BEN (individual) or W-BEN-E (entity). Tax reporting form 1042-S will be submitted to the vendor at the end of the calendar year.

Departments Paying Taxes on Behalf of Foreign National

At the time of payment processing, the departments have the option to pay the tax on behalf of the foreign national, which results in a tax-on-tax situation.

Example – Department pays tax on behalf of the Foreign National. The total payment to the Foreign National is \$200. (Total Expense to department is \$285.71)

- Step 1- $\$200 / .70 = \285.71
- Step 2 - $\$285.71 \times 30\% = \85.71 tax paid and reported to IRS (\$200 payment to foreign national)

Forms, Instructions, and Publications for Foreign Nationals from the Internal Revenue Service (IRS)

- [Publication 515](#), Withholding of Tax on Nonresident Aliens and Foreign Corporations
- [Publication 519](#), U.S. Tax Guide for Aliens
- [Publication 970](#), Scholarships and Fellowships
- [Form W-7](#), Application for Individual Taxpayer Identification Number
- [Form 1040NR](#), U.S. Nonresident Alien Income Tax Return
- [Instructions for Form 1040NR](#), U.S. Nonresident Alien Income Tax Return
- [Instructions for Form 1042](#), Annual Withholding Tax Return for U.S. Source Income of Foreign Persons and [1042-S](#), Foreign Person's U.S. Source Income Subject to Withholding